

CITY OF BELMONT

PERSONNEL RULES AND REGULATIONS



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PERSONNEL RULES AND REGULATIONS

Introduction

The City Council is authorized and directed by Section 2.79 of the City Code to adopt rules and regulations for the administration of the personnel system. The objectives of these rules are to facilitate efficient and economical services to the public and to provide for a fair and equitable system of personnel management in the municipal government.

These rules set forth in detail those procedures which insure similar treatment for those who compete for original employment and promotion and define the obligations, rights, privileges, benefits, and prohibitions which are placed upon all employees in the competitive service of the City of Belmont.

Within the limits of administrative feasibility, recognition shall be given to the fact that individuals differ, that no two individuals react alike to reward, discipline, or to motivation and encouragement and, for this reason, considerable latitude shall be given to the City Manager in the interpretation of these rules.

The City Council has, by resolution, adopted these rules and regulations.

1 Definition of Terms

The following terms, wherever used in these rules, shall be defined as follows:

1.1 Allocation:

The assignment of a single position to its proper class in accordance with the specifications for that class; or, the assignment of a class to a salary range or salary rate.

1.2 Applicant:

A person who has filed application for employment on a form prescribed by the Human Resources Director.

1.3 Appointing Authority:

The City Manager, department head, or person designated in writing by the City Manager shall have the power of appointment and removal of employees within the law and these rules and regulations.

1.4 Appointment:

The employment of a person in a position.

1.5 Authorized Position:

Any position authorized by the Council to be filled by the City Manager.

1.6 Candidate:

A person seeking employment by the City.

1.7 City:

The City of Belmont.

1.8 Class:

A group of positions sufficiently similar in duties, responsibilities, authority, and minimum qualifications to permit combining them under a single title and equitable application of common standards of selection and compensation.

1.9 Class Specifications:

A written description of a class, setting forth factors and conditions, which are essential characteristics of positions in a class.

1.10 Classification Plan:

The summary of job titles for each class, together with specifications for each class, as prepared and maintained by the Human Resources Director.

1.11 Compensation Plan:

The assignment by City Council Resolution of salary ranges and/or salary rates to each class.

1.12 Competitive Service:

All full-time positions of employment in the service of the City indicated in the Classification Plan as "Competitive". (Section 2.88 of the City Code lists positions, which are not in the competitive service.)

1.13 Continuous Service:

The employment without break or interruption of an employee having probationary or regular appointment.

1.14 Day:

Calendar day, except where the term "work day" is used.

1.15 Demotion:

The voluntary or involuntary reduction of regular employee from a position in one class to a position in another class having a lower maximum salary rate or a reduction in salary of a regular employee to a lower pay step.

1.16 Dismissal:

The involuntary separation from service of an employee by the Appointing Authority.

- 1.17 Eligible:**
A person whose name is on an employment list, which has been certified by the Human Resources Director.
- 1.18 Employment List:**
A list established and certified by the Human Resources Director, of names of persons who have taken and passed an examination for a given class.
- 1.19 Examination:**
A test or series of tests formulated under the direction of the Human Resources Director. Examinations may be open, promotional or continuous.
- 1.20 Original Appointment:**
A person's first appointment as a City employee.
- 1.21 Overtime:**
The working by a regular or probationary employee in a full-time position of more than is required for a full work shift for the position.
- 1.22 Part-Time Position:**
A position having a workweek of fewer hours than the workweek established for full-time positions in the class. A part-time position may be either regular or temporary.
- 1.23 Personnel Action Form:**
A multi-purpose form approved by the Human Resources Director for use in processing changes in an employee's salary rate, employment status, or other matters set forth in this resolution.
- 1.24 Position:**
A particular job assignment which includes certain duties and responsibilities assigned to a single employee and performed on either a full-time or part-time basis.
- 1.25 Probationary Appointment:**
A probationary appointment is for a specified period, during which time job performance is evaluated as a basis for a subsequent regular appointment.
- 1.26 Probationary Employee:**
An employee who has a probationary appointment to an authorized full-time position.
- 1.27 Probationary Period:**
A work test period that is part of the selection process and during which an employee is required to demonstrate fitness for the duties of the position assigned by actual performance of such duties.

1.28 Probationary Status:

The status of a person who has a probationary appointment.

1.29 Promotion:

The advancement of an employee from a position in one class to a position in another class with a higher maximum salary rate.

1.30 Reclassification:

The reassignment of a position from one class to a different class in accordance with a re-evaluation of the minimum qualifications, duties and responsibilities of the position.

1.31 Regular Appointment:

A regular appointment follows successful completion of a probationary period and signifies satisfactory performance of duties and responsibilities in the position to which the employee is assigned.

1.32 Regular Employee:

An employee who has successfully completed the probationary period as certified by the department head and the City Manager.

1.33 Regular Status:

The status of an employee who has received a regular appointment.

1.34 Reinstatement:

The re-employment of a former regular or probationary employee.

1.35 Rejection:

The involuntary separation of an employee during the probationary period.

1.36 Reprimand:

An oral or written criticism of an employee's performance made as a disciplinary action.

1.37 Salary Anniversary Date:

The future date on which a regular or probationary employee is eligible, on the basis of satisfactory job performance, for a prescribed period, for a merit salary advancement within the salary range established for the class of position the employee occupies.

1.38 Salary Range:

The range of salary rates for a class.

1.39 Salary Rate:

The dollar amount of each step in the salary range; or, the flat dollar amount of salary for a class not having a salary range.

- 1.40 Salary Step:**
The minimum through maximum salary increments of a multi-step merit salary range.
- 1.41 Step Increase:**
A salary increase within the limits of a salary range established for a class.
- 1.42 Suspension:**
The temporary separation from services of an employee, without pay, for disciplinary purposes.
- 1.43 Temporary Appointment:**
An appointment of a person who possesses the minimum qualifications established for a particular class in the absence of available eligibles.
- 1.44 Temporary Position:**
A full-time or part-time position of limited duration.
- 1.45 Termination:**
The separation of an employee from the City service because of retirement, resignation, death, or dismissal.
- 1.46 Transfer:**
A change of an employee from one position to another position in the same class or in another class having the same maximum salary rate, involving the performance of basically similar duties, and requiring substantially the same minimum qualifications.
- 1.47 Vacancy:**
A position that is not occupied by an employee having either a probationary or regular appointment to the position.
- 1.48 Work Schedule:**
The assignment of a position to a work shift or a series of work shifts in a 7-calendar day workweek.
- 1.49 Work Shift:**
The number of working hours a day required of an employee occupying a particular position.
- 1.50 Work Week:**
The number of working hours in a 7-calendar day period as established for a particular position or class. The City workweek begins at 12:01 a.m. on each Sunday and ends at 12:00 midnight the following Saturday.

2 GENERAL PROVISIONS

2.1 Employment Standard:

The City Council and all citizens of Belmont have the right to expect that the City will employ the best qualified persons available; that the tenure of every City employee will be based on a demonstrated need for the work performed, availability of funds, faithful and effective performance, proper personal conduct and continuing fitness for the employee's positions; and that each employee will be encouraged, trained and developed to assure optimum performance.

2.2 Fair Employment:

The City shall not discriminate for or against any employee or applicant for employment, promotion, demotion, or discharge because of race, color, religion, national origin, ancestry, medical condition, marital status, sex, sexual orientation, political affiliation, or lawful employee organization activities. To the extent prohibited by applicable state and federal laws, there shall be no discrimination on the basis of age; there shall be no discrimination against any disabled person solely because of such disability unless that disability prevents the person from adequately performing the duties of the position.

2.3 Amendments or Revisions to the Personnel Rules:

The City Manager shall prepare and present proposed amendments or revisions to these Rules to the Council for their consideration. Except in cases of emergency, reasonable advance written notice shall be given to employees and affected recognized employee organizations when proposed changes and amendments directly relating to matters within the scope of representation as defined by the Meyers-Milias-Brown Act, Government Code Sec. 3500, *et seq.*, are being considered for presentation to the Council for adoption. Such affected employee organizations shall have an opportunity to meet and confer. In emergency situations, organizations shall still be informed and may meet within a reasonable time thereafter. At the time of the Council's consideration, any interested party may appear and be heard. All proposed amendments or revisions shall become effective only upon approval by resolution of the Council.

2.4 Personnel Administration:

The City Manager shall administer the City personnel system and may delegate any of the responsibilities and authorities to another designee. The City Manager or designee shall:

- a) Interpret and administer all provisions of these Rules and Regulations and all related ordinances, resolutions, policies and procedures concerning personnel matters of the City.
- b) Prepare and recommend to the Council personnel rules and regulations including revisions and amendments thereto.
- c) Prepare or cause to be prepared a position classification plan including classification specifications, a compensation plan, and recommended revisions of the plans.

- d) Provide for the publishing or posting of notices of tests for positions in the classified service; the receipt and evaluation of applications thereof; the conducting and grading of tests; the certification of a list of persons eligible for appointments to the appropriate position in the competitive service; and the performance of any other duty that may be required to administer the personnel system.

The City Manager shall issue such additional administrative policies and procedures as he/she deems necessary to affect these Rules. Such additional administrative policies and procedures shall be in writing and shall be made available to employees and employee organizations. Employees and recognized employee organizations shall be informed of and have an opportunity to discuss proposed policies and procedures that are within the scope of representation, within a reasonable time prior to the proposed effective date, unless an emergency or urgent situation requires enactment without prior notice. In that event, organizations shall still be informed and may meet within a reasonable time thereafter.

2.5 Application of Rules and Regulations:

Except as otherwise provided in this section, the provisions of these rules shall apply to all employees in the regular or competitive City Service. These rules shall not apply to the following classes, which shall constitute Non-regular Service:

- a) Council-appointed employees;
- b) Elective Officers;
- c) Members of appointive boards, commissions and committees;
- d) Persons engaged under contract to supply expert, professional, technical or any other services;
- e) Volunteer personnel;
- f) Contract, reserve, temporary, seasonal and other employees who do not have regular or probationary status in authorized permanent positions;
- g) Department Heads.

All employees who are not in the regular or competitive service are considered to be at-will employees who serve at the pleasure of the Appointing Authority and may be removed from service at any time, with or without cause. Such employees are not entitled to a hearing upon termination.

2.6 Violation of Rules:

Violation of the provisions of these rules and regulations shall be grounds for rejection, suspension, demotion, dismissal, or other disciplinary action.

2.7 Memorandum of Understanding:

Procedures and conditions set forth in Memorandums of Understanding with employee organizations shall take precedence over these rules and regulations in those incidents where conflict of authority may arise.

2.8 Succession:

These personnel rules and regulations shall supercede all former versions.

2.9 Severability:

If any section, subsection, sentence, clause, or phrase of these personnel rules and regulations is for any reason held illegal, invalid, or unconstitutional by decisions of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions.

2.10 New Laws:

In case these personnel rules and regulations conflict with new or existing laws affecting employment, current laws will prevail.

2.11 Departmental Rules:

Any department head may establish written rules supplementing these rules and regulations and governing the operation of a department, provided such rules are compatible with these rules and regulations.

3 CLASSIFICATION PLAN

3.1 Administration of the Plan:

The Classification Plan shall consist of a list of every class in use by the City together with a Job Description for each. All Job Descriptions shall consist of the class title, definition of the job, a description of typical duties and responsibilities and a statement of desirable qualifications. Every City position shall be assigned to a class on the List of Authorized Positions. The Human Resources Director shall ascertain and record the duties and responsibilities of every position and, after consulting with department heads, shall prepare and maintain the Classification Plan.

3.2 New Positions:

When a new position is created by City Council action, such position shall be assigned by the Human Resources Director to an existing or new classification created by amendment to the Classification Plan.

3.3 Reclassification:

Positions, the duties of which have changed materially so as to necessitate reclassification, shall be assigned by the Human Resources Director to a more appropriate class. Reclassification shall not be used for the purposes of avoiding procedures regarding demotions and promotions.

4 COMPENSATION PLAN

4.1 Preparation of Plan:

The City Manager, or the person or agency employed for that purpose, shall, during the budget preparation period each year or whenever directed by the Council, prepare a Compensation Plan covering all classes of positions including those in the competitive service, showing a range and steps of pay for each position. In arriving at salary ranges, consideration shall be given to appropriate information exchanged with representatives of recognized employee organizations during the "meet-and-confer in good faith" process as called for in the Meyer-Milius-Brown Act, taking into consideration guidelines established by the City Council based in part upon prevailing rates of pay and consideration of working conditions for comparable work in other public and private employment, to current costs of living, to suggestions of department heads, to the City's financial condition and policies and to other relevant factors.

4.2 Adoption of Plan:

The Compensation Plan may be amended from time to time by resolution of the City Council. Memorandums of Understanding executed between the City Council and representatives of recognized employee organizations will have substantial bearing upon adjustments made by the City Council. Employee requests for wages, supplemental benefits and other terms and conditions of employment will be considered in accordance with the language set forth in the Employer-Employee Relations Resolution and as established by practices set forth in State law. At the time of consideration the Council may allow a period during which interested parties may appear and be heard. Positions shall not be assigned a salary not in conformance with the adopted Compensation Plan.

4.3 Pay Upon Initial Appointment:

Employees shall be assigned a salary or wage by the appointing authority within the range established for the appropriate position under the Compensation Plan. The minimum rate generally shall be assigned to employees upon original appointment; however, the appointing authority may, when circumstances warrant it, appoint, reinstate, or promote at other than the minimum rate (but not more than the maximum rate), with approval of the City Manager

4.4 Merit Increases:

Upon the completion of twelve (12) months of actual initial or promotional probationary service and after receiving a satisfactory performance report, a merit increase to the next higher step in the pay range shall be granted to eligible employees. Each twelve (12) months of actual service thereafter, each employee receiving a satisfactory performance report shall receive a merit increase to the next higher step until the top step of the pay range for the job class has been reached. An employee shall not receive a merit increase beyond the maximum step established for the job classification.

4.5 Pay Day:

Payday shall be at least twice monthly. In the event that this day falls on a weekend or holiday, payday will be the preceding day the City is open for normal business.

4.6 Time Sheets:

Payroll data for all employees will be compiled from time sheets in a form approved by the Finance Director.

4.7 Preparation of Payroll:

The payroll shall be prepared under the direction of the Finance Director, in accordance with the Compensation Plan. No changes in the names or salaries on the payroll shall be made unless written instruction is received from the City Manager.

5 APPLICATIONS AND APPLICANTS

5.1 Announcement:

All examinations, whether open-competitive or promotional, for classes in the competitive service, shall be publicized by posting announcements in the City Hall, on certain official bulletin boards, and by such other methods as the Human Resources Director deems advisable. The announcements shall specify the title and pay of the class for which the examination is announced; the nature of the work of the class, the manner of making applications and other information.

5.2 Application Forms:

Applications shall be made as prescribed on the examination announcement. Application forms shall require information covering education and training, work experience, references, and other pertinent data.

5.3 Disqualification:

Applicants may be disqualified either before or after an examination for failure to meet any of the established standards for the position applied for; making any false statements of any material fact; practicing any deception or fraud in the selection process; failing to appear promptly at the time and place designated for any portion of an examination; or for any material cause which in the judgment of the Human Resources Director or designee would render the applicant unsuitable for the position, including a prior resignation from the City, termination from the City, or a significant disciplinary action. Defective applications may be returned to the applicant with notice to amend same, providing the time limit for receiving applications has not expired.

5.4 Criminal Conduct – Ineligibility for Employment:

Conviction of a felony, or a misdemeanor involving moral turpitude, including pleas of guilty or nolo contendere, may constitute grounds for disqualification of an applicant for employment, or grounds for termination of an existing employee. The Appointing Authority may disregard any criminal conviction in making the decision to offer employment provided that the circumstances of the conviction would not impact the ability of the applicant to perform City service in the classification for which the applicant has applied. The decision to disqualify any applicant or employee on the basis of criminal conviction record will be made on a case-by-case basis. Factors which may be considered in reaching this decision include, but are not limited to:

- a) The classification, including sensitivity, to which the person is applying or being certified and whether the classification is unrelated to the conviction;
- b) The nature and seriousness of the offense;
- c) The circumstances surrounding the conviction;
- d) The length of time elapsed since the conviction;
- e) The age of the person at the time of conviction;
- f) The presence or absence of rehabilitation or efforts at rehabilitation.

Applicants for any sworn law enforcement position are disqualified from employment if the applicant has been convicted of a felony, regardless of circumstances.

6 EXAMINATION

6.1 Nature and Types of Examinations:

The Human Resources Director may schedule an examination whenever the Human Resources Director determines that there will be a vacancy in the competitive service and no Employment List exists from which the vacancy might be filled. The Human Resources Director shall determine whether the examination will be open or closed-promotional. An open examination is open to all persons meeting the qualifications for the class. A closed-promotional examination is limited to employees in the competitive service who meet the minimum qualifications for the class. A continuous examination is an open examination, which is administered periodically. The exam will result in a list of names which can be certified on an employment list, in order of final scores.

The selection techniques used in the examination process shall be impartial and relate to those subjects which, in the opinion of the Human Resources Director, fairly measure the relative capacities of the persons examined to execute the duties and responsibilities of the class to which they seek to be appointed. Examinations shall consist of selection techniques which will test fairly the qualifications of the candidates such as, but not necessarily limited to, achievement and aptitude tests, other written tests, typing and shorthand tests, physical agility examinations, oral interviews, assessment centers, practical exercises, or any combination of these or other tests.

6.2 Conduct of Examination:

The Human Resources Director may prepare and administer or contract with any competent agency or individual for the preparation and administration of examinations, as the Human Resources Director deems most appropriate.

6.3 Scoring Examinations and Qualifying Scores:

The weight to be given each part of the examination shall be established prior to the evaluation of candidates competing for any vacant positions. A candidate's score in a given examination may be the weighted average of the candidate's scores on each competitive part of the examination. Failure in one part of the examination may be grounds to declare such applicants as failing the entire examination, or as disqualified for a subsequent part of an examination.

The Human Resources Director or designee shall review the qualifications of candidates for full-time vacant positions in the competitive service who have successfully passed all other phases of the examination process and shall certify the order of those eligible for appointment.

6.4 Medical Examinations:

Pre-employment medical examinations may be required for certain classifications prior to hire to determine fitness for duty of the job at issue. Such medical examinations shall be conducted by a qualified physician selected by the City. All such examinations shall be job-related, conducted and utilized in accordance with the law.

6.5 Other Required Examinations:

Offers of appointment to the City service may also be contingent on psychological, fingerprint, background, drug screen, or other types of supplementary examinations. Such other required examinations shall be stated in the examination announcement.

6.6 Examination Records:

The records of an examination are working documents, confidential in nature, and not subject to inspection by the public or other applicants. Examination records include but may not be limited to rating sheets, test results, reference checks, background investigations, and physical and psychological examinations.

7 EMPLOYMENTS LISTS

7.1 Employment Lists:

As soon as possible after the completion of an examination, the Human Resources Director shall compile an employment list consisting of the names of candidates who qualified in the examination, arranged in order of final scores, from the highest to the lowest qualifying score. Whenever identical scores are received on a promotional examination, seniority shall govern the placement on the employment list. If there are less than three names on an eligible list, the Human Resources Director or designee may declare such list void and fill the positions by any method permitted by these Personnel Rules, including but not limited to undertaking new recruiting and testing procedures.

Employment lists shall remain in effect for six (6) months. At the discretion of the Human Resources Director, employment lists may be extended, up to a maximum of eighteen (18) months for a total maximum employment list life of twenty-four (24) months. Applicants placed on open employment lists shall be entitled to reapply or have their names merged with any others on the new lists in order of final scores. The names of probationary and regular employees who have been laid off shall be placed at the top of the employment list in order of total cumulative time served in probationary and regular status.

Candidates whose names appear on an eligibility list shall be deemed qualified for appointment, pending further review of such qualifying processes as reference checks,

medical examination, background investigations, departmental interviews or other test measures deemed appropriate.

7.2 Removal of Names from Lists:

The name of any persons appearing on an employment or promotional list shall be removed by the Human Resources Director if the eligible so requests; or if the eligible fails to respond within five (5) days to a notification of an opening from the Human Resources Director or designee. Removal shall also be for any of the reasons specified in Section 5.3. The person affected shall be notified of the removal by a notice mailed by regular mail to the last known address. The names of persons on promotional employment lists who resign from the service shall automatically be dropped from such lists.

8 METHOD OF FILLING VACANCIES

8.1 Types of Appointment:

Vacancies in the competitive service that have been determined by the City will be filled by regular appointment shall be filled by the appointing authority by transfer, promotion, demotion, re-employment, re-instatement, or from eligibles on an appropriate employment list, if available. Insofar as is consistent with the best interests of the City, vacancies in the competitive service will be filled by promotion from within the competitive service. In the absence of persons eligible for appointment in these ways, or if it is deemed appropriate or in the best interests of the City by the City Manager, temporary appointments may be made by the appointing authority until an examination can be conducted and an Employment List established. Every appointment shall be made in writing and shall specify whether it is regular or temporary, full-time or part-time. Eligibles shall be submitted to the appropriate appointing authority for consideration, who will, in turn, select one of the three most qualified for appointment. The person accepting appointment shall appear as required by the appointing authority, or designated representative, for processing on or before the date of appointment. If the applicant accepts the appointment, and appears for duty within such period of time as the appointing authority shall prescribe, the applicant shall be deemed appointed; otherwise, the applicant shall be deemed to have declined the appointment. The appointing authority may require written confirmation of the acceptance of the appointment prior to the starting date of the appointee's work.

8.2 Appointment Categories:

PROBATIONARY employees must fulfill an original or promotional probationary period as specified for the class. Upon successful completion of the probationary period, the employee will attain regular status. Probationary employees may be either full-time or part-time, and are eligible for participation in the City's benefit programs.

REGULAR FULL-TIME employees have successfully completed the probationary period and are regularly scheduled to work a full-time (minimum of 40 hours per week) schedule. Regular full-time employees are eligible for participation in the City's benefit programs.

REGULAR PART-TIME employees are not in a temporary status and are regularly scheduled to work less than the full-time work schedule (40 hours per week), but at least 20 hours per week. Regular part-time employees are eligible to participate in the City's benefit programs on a pro-rata basis, subject to the terms, conditions, and limitations of each benefit program.

TEMPORARY (also known as CASUAL) employees are those who are appointed as interim replacements, to temporarily supplement the work force on a seasonal or as-needed basis, or to assist in the completion of a specific project. Temporary employment assignments are of a limited duration, and may be full-time or part-time. Temporary appointments are outside the competitive examination process, employed at the will and discretion of the City, and do not serve a probationary period. Temporary employees are not eligible to participate in the City's benefit programs.

9 PROBATIONARY PERIOD

9.1 Regular Appointment Following Probationary Period:

All original and promotional appointments shall be subject to a probationary period of twelve (12) months of continuous service from the date of appointment. The probationary period for newly appointed Police Officers shall commence after successful completion of training at the Police Academy. If the appointing authority determines that a longer probationary period is necessary in order to evaluate and demonstrate an employee's qualifications, the probationary period may be extended. The appointing authority shall be responsible for monitoring the probationary period and for initiating a personnel action form to either extend the probationary period or to appoint the probationer to regular status.

9.2 Objective of Probationary Period:

The probationary period shall be regarded as part of the testing process and shall be utilized for evaluating employee work performance in order to determine whether the probationary employee is qualified for certification as a regular employee.

9.3 Promotional Probationary Period:

The probationary period for an employee promoted to a new job classification shall be for a period of twelve (12) months from the date of the promotion.

9.4 Rejection of Probationer:

During the probationary period, an employee may be terminated at any time by the appointing authority, without cause and without right of appeal. Notification of rejection, in writing, shall be served on the probationer.

9.5 Rejection Following Promotion:

Any regular employee rejected during the probationary period following a promotional appointment, or at the conclusion of the probationary period, shall be reinstated to the position from which the employee was promoted unless conditions warrant the employee's dismissal.

10 TRANSFER, DEMOTION, SUSPENSION, REINSTATEMENT AND RE-EMPLOYMENT

10.1 Transfer:

No person shall be transferred to a position for which the employee does not possess the minimum qualifications. An employee may be transferred by the department head at any time from one position to another position in a comparable class. For transfer purposes, a comparable class is one with the same maximum salary, involving the performance of similar duties and requiring the same basic qualifications. If the transfer involves a change from one department to another, both department heads must consent thereto, unless the City Manager orders the transfer for purposes of economy or efficiency. Transfer shall not be used to effectuate a promotion, demotion, advancement or reduction, each of which may be accomplished only as provided in these rules and regulations. Such transfer shall not result in the loss to the employee of any accumulated leave, such as vacation and sick leave.

10.2 Demotion:

The appointing authority may demote an employee whose ability to perform the required duties falls below standard. No employee shall be demoted to a position for which the employee does not possess the minimum qualifications. Written notice of demotion shall be given by the appointing authority to the employee before the effective date of the demotion. During the time period allowed for proceedings and review of demotion of employees, the appointing authority may fill the vacancy by temporary appointment, in accordance with these rules and regulations.

10.3 Suspension:

The appointing authority may suspend an employee from a position at any time for a disciplinary purpose. Suspension without pay shall not be less than one workweek for exempt employees. While on suspension without pay, employees shall not be entitled to vacation, sick leave and seniority accumulation. The appointing authority may place an employee on administrative suspension with pay pending resolution of an investigation that may result in discipline.

10.4 Reinstatement:

A regular or probationary employee who has resigned in good standing may be reinstated by the appointing authority, to a vacant position of the same class as the previous position held within a period of one year from the effective date of such resignation. Reinstatement

shall be on a probationary status in accordance with these rules and regulations. Reinstated employees shall not receive credit for former employment in computing pay, benefits, or seniority, unless otherwise provided in the appropriate Memorandum of Understanding.

10.5 Re-employment:

The name of each employee who is laid off in accordance with these rules and regulations shall be placed at the top of the employment list in the class or position which the employee held and shall be given preference in filling vacancies in such class for a period of one year following the date of lay off.

10.6 Reclassification:

Reclassification is defined as the reassignment of a position from one class to a different class in accordance with a re-evaluation of the minimum qualifications, duties, and responsibilities of the position (Section 1.31 of the Personnel Rules and Regulations). When an employee believes his or her job duties and responsibilities have changed sufficiently to warrant a reclassification, the employee may submit a request for reclassification, with justification for such request, to his or her department head. The department head will review the request for reclassification and develop a full rationale for his or her decision to approve or deny reclassification of the position. The department head will inform the employee of the outcome of his or her analysis and decision within 60 days of receipt of the request.

If the department head decides in favor of reclassification, the request will be forwarded to the Human Resources Director for review. If the department head decides against the reclassification, the employee may elect to forward the request on to the Human Resources Director for review. The Human Resources Director will review the request within 90 days of receipt from either the department head or the employee. Upon completion of the review process, the Human Resources Director will make a recommendation to approve or deny the reclassification request. Requests that are approved by the Human Resources Director will be forwarded to the City Manager for final approval.

11 ATTENDANCE, WORK WEEK, AND OVERTIME

11.1 Attendance:

Employees shall be in attendance at their work during the hours assigned by the department head. Failure on the part of an employee, absent without authorized leave, to return to duty at the employee's regularly scheduled starting time on the following day after notice to return, shall be cause for immediate discharge.

11.2 Work-Week:

The basic workweek for full time employees will be forty (40) hours, rendered in units of eight (8) hours per day in a workweek that runs Sunday through Saturday. The City may assign a different workweek when it is deemed to be beneficial to the City.

11.3 Overtime:

Overtime for non-exempt employees is defined as authorized time worked in excess of forty (40) hours in the designated seven (7) day workweek or in accordance with the provision of the applicable Memorandum of Understanding. Employees may be required to work overtime at the discretion of the supervisor. Payment for any overtime is based on the expressed assignment and approval of the supervisor. Employees working overtime when not expressly assigned to do so by their supervisor may be subject to discipline.

12 LEAVES

12.1 Holidays:

The holidays to be observed in this City are as follows and employees shall not be required to be on duty unless the department head has so indicated:

New Years Day	January 1
Martin Luther King Jr. Day	Third Monday in January
President's Birthday	Third Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	First Monday in September
Columbus Day	Third Monday in October
Veteran's Day	November 11
Thanksgiving Day	Fourth Thursday in November
Friday after Thanksgiving	
Christmas Day	December 25
Christmas Eve or New Year's Eve	December 24 or 31**

**Either the day before Christmas or the day before New Year's Day shall be a holiday, the specific day to be determined by mutual agreement between the employee and the department head, and the employee shall not be required to be on duty unless the department head has so indicated.

If an employee is required by the department head to work on any of the above holidays, then the employee shall be granted equivalent compensatory time off at some other time during the year, said time to be determined by the department head. When a holiday falls on Sunday, the following Monday shall be observed. When a holiday falls on Saturday, the previous Friday shall be observed. If the holiday falls on an employee's regularly scheduled time off, compensatory time shall be granted.

12.2 Floating Holidays:

Upon completion of one (1) year of service, employees shall be credited with two (2) floating holidays, to be taken at a time that is mutually convenient to the employee and the employee's department head. Floating holidays must be used in the calendar year in which they are granted, may not be carried over into the subsequent calendar year, and may not be paid out upon separation from City service.

12.3 Annual Vacation Leave:

All full-time and part-time regular employees shall be entitled to annual vacation leave with pay as described in the appropriate memorandum of understanding. Part-time employees shall be entitled to a pro-rata percent of the full-time accrual rate.

For purposes of computing annual vacation leave, a workday shall be considered as eight working hours. A time during a calendar year at which an employee may take his/her vacation shall be determined by the department head with due regard for the wishes of the employee and particular regard for the need of the service. No employee may accumulate more than two times his/her annual accrual of vacation leave. When an employee reaches the maximum accrual he/she will cease earning vacation until the vacation accrual falls below the maximum. Employees who terminate employment shall be paid straight-time salary equivalent in a lump sum for all accrued vacation leave earned on or before the effective date of termination.

12.4 Sick Leave:

Sick leave, with pay, shall be credited to all full-time regular and probationary employees at the rate of eight (8) hours per month. Sick leave may be used for personal illness or disability and health care appointments. In accordance with Labor Code 233, up to 48 hours per year of sick leave may be used to care for an ill child, spouse, domestic partner, or parent. In order to receive compensation while absent on sick leave, the employee shall notify their immediate supervisor or other department supervisor prior to the time set for beginning daily duties. An employee taking sick leave may be required to file a physician's certificate or personal affidavit with the department head stating the cause of absence. An employee who is off on sick leave shall be entitled to accumulate earned sick leave while using previously earned sick leave.

Employees shall not be entitled to use sick leave as a matter of right, but shall be allowed only in case of necessity and actual sickness or disability. Inappropriate use of sick leave and/or abuse of sick leave shall be just cause for disciplinary action.

Supervisors shall have the discretion to place employees on sick leave when, in the judgment of the supervisor, the presence of the employee at work would endanger the health and welfare of other employees or where the illness or injury of the employee interferes with the performance of such employee's duties.

12.5 Pregnancy Disability Leave:

Every female employee shall be entitled to up to four months leave of absence for pregnancy disability and to use available sick leave or vacation pay entitlements during such leave. Application for such leave must be made in writing by the employee to the department head. The employee will be required to provide a written statement from the employee's attending physician. The statement must address itself to the employee's ability to perform her job duties, and it must indicate the date of the commencement of the disability as well as the date the physician anticipates the disability to terminate. Such employee may also be eligible for leave under the Family Care Leave Policy.

Female employees will be reasonably accommodated for conditions related to pregnancy, childbirth, or related medical conditions if the employee requests an accommodation with the advice of her health care provider.

12.6 Bereavement Leave:

A maximum of five (5) days of accumulated sick leave may be taken each calendar year in case of an employee's presence is required elsewhere because of death affecting the employee's immediate family. The immediate family shall consist of the spouse or domestic partner, children, parents, brothers, sisters or dependents.

12.7 Industrial Disability Leave (Non-Safety Employees):

Industrial disability leave means the absence from duty of an employee because of work-incurred illness or bodily injury when such absence has been accepted for coverage under the provisions of the Workers' Compensation laws of the State of California, and such leave shall not be deducted from the employee's sick leave balance. As a condition of receiving pay under this rule, the employee shall be required to assign or endorse to the City of Belmont, any remuneration received as a result of Workers' Compensation insurance program, during such period of pay by the City. The employee shall only be entitled to receive such pay differential for a maximum period of eighty (80) hours per year. However, earned vacation and sick leave may be used beyond this eighty-hour period to make up said pay differential.

12.8 Industrial Disability Leave (Safety Employees):

A sworn safety employee may be entitled to industrial disability leave and temporary disability benefits in accordance with Section 4850 of the California Labor Code. All employees receiving full salaries in lieu of disability payments pursuant to Section 4850 of the Labor Code are entitled to accumulate sick leave and vacation leave during such period of disability.

12.9 Military Leave:

Military leave shall be granted in accordance with the provisions of State and Federal laws and there shall be a deduction for any military compensation that the employee receives from service during the period the employee is receiving full pay from the City, if permitted by law. All employees taking military leave shall give the department head an opportunity, within the limits of military regulations, to determine when such military leave shall be taken.

12.10 Administrative Leave:

The City Manager may grant administrative leave to management personnel who are not eligible for overtime pay in accordance with limits set by the City Council.

12.11 Leave Without Pay:

On application of the employee, recommended by the department head, the City Manager may grant leave without pay for a period not to exceed 90 working days per year. Employees on leave without pay shall not be entitled to holiday, vacation, sick leave and

seniority accumulation, nor flexible benefit plan or deferred compensation plan contributions. Subject to the terms, conditions, and limitations of the applicable plans, health insurance benefits will be paid for until the end of the month in which the approved leave of absence without pay begins. At that time, employees will become responsible for the full costs of these benefits if they wish coverage to continue.

12.12 Jury Leave:

Every full-time employee of the City who is called and required to serve as a trial juror shall be entitled to be absent from normal duties with the City during the period of such service or while necessarily being present in court as a result of such call. Under the circumstances, the employee shall be paid the difference between the employee's full salary and any payment received by the employee, except travel pay, for such duty. An employee who has been subpoenaed as a witness in the employee's official City capacity shall be paid the employee's regular pay less any witness fee received. An employee who has been subpoenaed in a private capacity shall not be paid for the time the employee is not on duty with the city.

12.13 Time Off for Voting:

In the event that an employee does not have sufficient time outside of working hours to vote in a statewide election, the employee may take off enough working time to enable him or her to vote. Such time off shall be taken at the beginning or the end of the regular working shift, whichever allows for more free time, and the time taken shall be combined with the voting time available outside of working hours. Under these circumstances, an employee will be allowed a maximum of two hours on the election day without loss of pay. Where possible, the employee shall give his or her supervisor at least two days notice that time off to vote is needed.

12.14 School Leave:

Regular employees may take up to 40 hours off per year for school activities for children in kindergarten through twelfth grade. The employee must use existing vacation, floating holiday, administrative leave, or compensatory time off during such leave and the employee must give at least 24 hours notice to his/her supervisor of the planned school leave.

12.15 Family and Medical Care Leave:

To the extent not already provided for under current leave policies and provisions, the City will provide family and medical care leave for eligible employees as required by state and federal law. The following provisions set forth certain of the rights and obligations with respect to such leave. Rights and obligations that are not specifically set forth below are set forth in the Department of Labor regulations implementing the Federal Family and Medical Leave Act (FMLA) and the California Family Rights Act (CFRA).

Family and Medical Care Leave of Absence is available to regular full-time and part-time employees who have been employed with the City for at least twelve (12) months, and have been employed for at least 1,250 hours of service during the twelve (12) month period. The City will grant paid or unpaid family care leave to eligible employees for up to

twelve (12) weeks per twelve (12) month period for any one or more of the following reasons:

- (a) The birth or placement (adoption or foster care) of a child, and in order to care for such child following birth or placement with the employee for adoption or foster care. Leave for this reason must be completed within the twelve (12) month period following the child's birth or placement with the family. The minimum duration of such leave is two (2) weeks.
- (b) Care for an immediate family member (spouse, domestic partner, child, or parent as defined below) who has a serious health condition.
- (c) The employee's own serious health condition that makes the employee unable to perform the functions of his/her position.

Definitions

- (a) "Spouse" means a husband or wife of an employee.
- (b) "Domestic Partner" means a person, regardless of gender, who resides with the employee and shares the common necessities of life. In a domestic partnership neither party is married to another; both are at least 18 years of age; are not related by blood so close as to bar marriage; are mentally competent; and are each other's sole domestic partner, intend to remain so indefinitely, and are responsible for their common welfare.
- (c) "Parent" is defined as the biological parent, or an individual in loco parentis (in the place of a parent) to an employee when the employee was a child.
- (d) "Child" means a child either under 18 years of age, or 18 years of age or older who is incapable of self-care because of a mental or physical disability. An employee's "child" is one for whom the employee has actual day-to-day responsibility for care and includes a biological, adopted, foster, or stepchild.
- (e) "Serious health condition" means an illness, injury, impairment, or a physical or mental condition that involves 1) inpatient care; or 2) any period of incapacity requiring absence from work for more than three calendar days and that involves continuing treatment by a health care provider; or 3) continuing treatment from a health care provider for a chronic or long-term health condition that if left untreated would result in absence of more than three days; or for prenatal care. Voluntary or cosmetic treatments which are not medically necessary do not qualify as a serious health condition unless inpatient care is required.
- (f) "Continuing treatment" means 1) two or more visits to a health care provider; or 2) two or more treatments by a health care practitioner on referral or direction by a health care provider; or 3) a single visit to a health care provider that results in a regimen of continuing treatment.

Intermittent or Reduced Leave

An employee may take leave intermittently (a few hours or days at a time) or on a reduced leave schedule (leave taken on a schedule that reduces the usual number of days or hours per week the employee works) if the reduced leave schedule is medically necessary as determined by the health care provider of the person with the serious health condition, and if such intermittent or reduced leave schedule can be accommodated by the City.

Use of Paid Leave

Employees must use any available vacation, administrative leave, or floating holiday time prior to taking unpaid time during the approved leave. Any accrued holiday pay hours must also be taken during the approved leave. Employees may elect to use compensatory time during the approved leave. Employees must use available sick leave if the leave is for the serious health condition of the employee. Employees may use sick leave if the leave is for the birth or placement of a child or to care for an immediate family member, subject to the provisions governing use of sick leave in these Rules and in the applicable memorandum of understanding.

Notice Requirements

An employee is required to give thirty days notice in the event of a foreseeable leave. A request for family/medical leave should be completed by the employee on a form prescribed by the Human Resources Director and submitted to the employee's department head. In unexpected or unforeseeable situations, an employee should provide as much notice as possible. If an employee fails to give thirty days notice for a foreseeable leave with no reasonable excuse for the delay, the leave may be denied until thirty days after the employee provides notice.

Medical Certification

Where the Family Care and Medical Leave is to care for a covered family member's serious health condition, the employee may be required to submit medical certification issued by the health care provider of the individual requiring care. The certification shall include the following: 1) the date on which the serious health condition commenced; 2) the probable duration of the condition; 3) an estimate of the amount of time the employee is needed to care for the individual; and 4) a statement that the serious health condition warrants the participation of a family member to provide care during the period of treatment.

Where the Family Care and Medical Leave is to care for an employee's own serious health condition, the employee will be required to submit medical certification of the dates and duration of the disability. The City may require a second or third medical opinion at the City's expense, periodic reports on the employee's status, and a fitness for duty report prior to returning to work.

The City will maintain separate, confidential files for medical and personal information relative to family/medical leave requests.

Effect on Benefits

An employee on Family Care and Medical Leave will continue to be covered under his/her group health, flexible benefits premium contributions, dental, vision, life, and long term disability plans under the same conditions as would have been provided if the employee had been continuously employed during the leave period. A total of twelve weeks of continued coverage will be available, whether the leave taken is paid or unpaid. The City reserves the right to recover premiums for such benefits paid during unpaid leave if the employee fails to return to work for reasons unrelated to having taken the leave.

Employees are not eligible for holiday pay for any holidays scheduled during the leave period unless they are in paid status on the days immediately preceding and following the holiday. Contributions for benefits such as retirement, reimbursement accounts, deferred compensation, and employee association dues will only continue while the employee is in paid status.

Relationship Between Family Care and Medical Leave and Pregnancy Disability Leave

The California Family Rights Act (CFRA) specifically excludes pregnancy disability leave from the “family and medical care leave.” An employee is entitled to take, in addition to pregnancy disability leave, 12 weeks of family and medical care leave in a 12-month period.

Pregnancy disability leave is normally 6 to 8 weeks for a typical, non-complicated pregnancy. However, the law allow for up to 16 weeks (4 months) of pregnancy disability if medical complications exist. Regardless of the length of disability, Pregnancy Disability Leave will not count against the Family and Medical Care Leave of 12 weeks.

Return to Work

On returning to work at the expiration of a Family and Medical Care leave the employee shall be reinstated to his/her same position if available, or to a substantially equivalent position with equivalent pay, benefits, and other terms and conditions of employment. Employees have no greater rights to reinstatement, benefits, and other conditions of employment than if the employee had been continuously employed during the leave period.

13 SEPARATION FROM THE SERVICE**13.1 Resignation:**

An employee wishing to leave employment with the City shall file with the appointing authority a written resignation stating the effective date and reason for leaving, at least two weeks before leaving the service, unless such time limit is waived by the appointing authority. Failure to give such written notice of resignation may be cause for denial of future employment with the City. A resignation becomes final when accepted by the appointing authority. Once a resignation has been accepted by the appointing authority, it cannot be withdrawn.

13.2 Layoff:

The appointing authority may lay off or demote an employee because of material change in duties or organization, shortage of work or funds, or because the necessity for a position no longer exists.

Notice

The appointing authority shall advise the employee, in writing, of the action with reasons therefore. Whenever possible, an employee to be laid off will be given at least fourteen (14) working days' notice. An employee shall be notified of any displacement rights or rights to re-employment.

Order of Layoff

Employees shall be laid off in inverse order of their length of service in a classification. Length of service is date of hire in a regular classification. If two or more employees have the same length of service, the order of layoff will be determined by the City Manager.

Displacement

An employee designated to be laid off shall have the right to displace an employee in the same, lateral, or lower classification within the same department, provided that the employee exercising the displacement privilege has greater departmental seniority than the incumbent in the class to which the employee is displacing. Departmental seniority is defined as the length of time the employee has been employed in the department, regardless of the classification(s) held. Such employee may also displace a less senior employee (utilizing total City seniority) in another department in a classification which the employee has previously held and performed in a satisfactory manner. If the employee in the higher classification has not held status in the lower classification, then no displacement rights accrue to that individual. Conditions which affect displacement rights are as follows:

- a. The employee exercising the displacement privilege will displace employees in lower classifications in the inverse order of seniority.
- b. All employees must exercise displacement privileges within five (5) working days after receipt of the Notice of Layoff, by written notice to the Human Resources Director. If this choice is not exercised within the specified time period, it is automatically forfeited.

Demotion

Upon request of the employee, and with the approval of the appointing authority, an employee who has not held status in a lower classification may be allowed to demote to a vacant position if the appointing authority determines that the employee meets all the requirements of the lower position. All employees who are demoted under this paragraph will be paid at the rate of pay for the lower position.

Transfer

The appointing authority may transfer an employee to a vacant authorized position if the employee is qualified and technically capable of performing the duties as determined by the appointing authority.

Employees who are transferred will be paid at the rate of the new position. Any employee who does not accept transfer within five (5) working days after a Notice of Transfer is given, will have automatically forfeited the ability to transfer.

If the transfer involves a change from one department to another, both department heads must consent unless the City Manager orders the transfer for purposes of economy or efficiency.

13.3 Discharge or Dismissal:

An employee may be discharged for cause at any time by the appointing authority.

14 DISCIPLINARY ACTION

14.1 Types of Discipline:

The City has established rules and regulations governing employee conduct. Management is responsible for ensuring compliance with these rules, and administering appropriate action when violations occur. Employees may be reprimanded, suspended, reduced in pay, demoted, or discharged for violation of these rules.

14.2 Causes for Disciplinary Action:

Causes for disciplinary action against any employee may include, but shall not be limited to, the following:

- (1) Absence without authorized leave.
- (2) Abuse of sick leave, which includes taking sick leave without a doctor's certificate when required, or using sick leave for unauthorized purposes.
- (3) Attendance at work under the influence of alcohol or drugs, carrying onto the premises alcohol or drugs or using alcohol or drugs during work hours and/or on the work site.
- (4) Neglect of duty, i.e., non-performance of assigned responsibilities.
- (5) Misuse, negligent or willful damage to public property or waste of public supplies or equipment.
- (6) Violation of any lawful or reasonable regulation or order given by a supervisor or department head, or failure to follow management directives.
- (7) Material and intentional misrepresentation or concealment of any fact in connection with obtaining employment.
- (8) Misappropriation or misuse of City funds or property.
- (9) Violation or neglect of safety rules or practices.
- (10) Dishonesty or theft.
- (11) Excessive absenteeism and/or excessive tardiness.

- (12) Discrimination or harassment against any individual associated with or employed by the City for reasons of race, color, religion, sex, national origin, age, sexual orientation, physical or mental disability, veteran status or marital status.
- (13) Sexual harassment, including but not limited to unwelcome sexual advances, requests for favors and other verbal or physical conduct of a sexual nature, when such contact has the purpose or effect of affecting employment decisions concerning an individual, or unreasonably interfering with an individual's work performance, or creating an intimidating and hostile work environment.
- (14) Retaliation against an employee who reports claims of discrimination, harassment, or cooperates in the investigation of claims of discrimination or harassment.
- (15) Threats or acts of physical harm directed toward an individual or his/her family, friends, associates, or property.
- (16) The use of abusive or profane language in the workplace.
- (17) Fraud.
- (18) Unsatisfactory performance or conduct
- (19) Insubordination.
- (20) Dishonesty.
- (21) Conviction of a felony or conviction of a misdemeanor involving moral turpitude. A plea or verdict of guilty, or a conviction following a plea of nolo contendere, to a charge of a felony of any offense involving moral turpitude is deemed to be a conviction within the meaning of this section.
- (22) Discourteous treatment of the public or other employees.
- (23) Improper political activity as defined by the Government Code.
- (24) Willful disobedience.
- (25) Other failure of good behavior either during or outside duty hours that is of such a nature that it brings discredit to the City.
- (26) Violation of City or Department rules, regulations, or orders.
- (27) Failure to maintain possession of the minimum qualifications of the position, or required licenses or certifications.
- (28) Soliciting or directly or indirectly accepting any gifts, gratuity, money or check from any person or organization, for either the performance or non-performance of any of the employee's duties.

15 PRE-DISCIPLINARY PROCEDURE

15.1 Procedure for Pre-Discipline:

If a regular employee is to be disciplined by imposition of suspension without pay, demotion, or dismissal, the appointing authority shall proceed as follows:

- (a) Prepare and forward to the employee a written "Notice of Intent to Discipline", specifying the discipline intended and reasons therefore. A copy of this notice shall be forwarded to the Human Resources Director.
- (b) The "Notice of Intent to Discipline" shall contain the following:
 - (1) A statement clearly stating the intent to take action, the specific action to be taken, and the proposed date of the action;

- (2) A statement of the specific action or charges which allegedly constitutes a violation of the rule or regulation;
- (3) A description of the records and documents upon which the proposed action is based. (4) Upon receipt of an employee of a "Notice of Intent to Discipline", an employee shall be allowed ten (10) working days from the date of receipt to respond either in writing or orally. Failure by employee to respond within ten (10) working days of receipt of a "Notice of Intent to Discipline" shall forfeit all further rights of the employee and the disciplinary action shall be imposed.
- (c) If the employee or designated representative requests the right to respond either orally or in writing to the department head, imposition of proposed discipline shall be deferred until after a pre-disciplinary hearing.
- d) Where a written or oral response has been elected, the department head shall conduct a pre-disciplinary hearing. Such hearing shall be tape recorded. It is the department head's responsibility to coordinate the scheduling of the hearing including (1) the date, time and place; and (2) forwarding of notices of such information to all parties within five (5) working days of the employee's request. The department head shall conduct the hearing informally and hear appropriate statements and review relevant evidence from the employee on the specific issues of the intended disciplinary action.
- (c) The department head's responsibility includes: assuring all relevant information surrounding the incident has been presented, hearing relevant statements by the employee that may have a bearing on the issue or the proposed discipline, and rendering a decision, in writing.
- (d) The department head shall impose final action within ten (10) working days from submission of the matter for decision by serving the employee with a written "Notice of Disciplinary Action" specifying the date(s) upon which the disciplinary action shall be imposed. The "Notice of Disciplinary Action" shall also inform the employee of the right to appeal in accordance with the Grievance Procedures, as outlined in these rules.

16 GRIEVANCE PROCEDURE

16.1 Policy:

It shall be the policy of the City of Belmont that grievances may be processed and appeals may be filed only on behalf of an employee who has successfully completed the required original probationary period and attained regular status.

16.2 Definition, Scope and Right to File:

- (a) A grievance may be filed by employees on their own behalf or jointly by a group of employee, or by an employee organization.
- (b) All grievances shall be filed only in accordance with this procedure. A grievance is a claimed violation, misinterpretation, inequitable application or non-compliance with these rules and regulations.
- (c) Disciplinary Action Appeals

- (1) For those employees not covered by a separate grievance procedure in a memorandum of understanding, this procedure shall be used to appeal disciplinary action.
- (2) For those employees covered by a separate grievance procedure in a memorandum of understanding, the procedure in the memorandum of understanding shall be used.

16.3 Informal Grievance Procedure:

- (a) Within five (5) days of the discovery of an event giving rise to a grievance, the grievant or representative shall present the grievance informally to the supervisor; except where the grievance involves the relationship with the supervisor, in that instance it shall be submitted to the next higher level of supervision.
- (b) The grievant and supervisor have a mutual responsibility to attempt resolution at the lowest possible level.
- (c) Presentation of an informal grievance shall be necessary prior to the filing of a formal grievance.

16.4 Formal Grievance Procedure:

- (a) If the grievant feels that the issue grieved was not resolved informally, a formal grievance shall be filed within five (5) days after the last meeting between the employee and supervisor. A formal grievance shall only be initiated by completing a form provided by the Human Resources Director. This form shall contain:
 - (1) Name of grievant
 - (2) Class title(s)
 - (3) Department
 - (4) Working Address (es)
 - (5) A clear statement of the nature of grievance, citing the applicable language of these rules and regulations involved.
 - (6) The date on which the grievance occurred.
 - (7) Proposed solution to the grievance.
 - (8) Date grievance formally completed.
 - (9) Signature of grievant(s).
 - (10) Name of organization, or representative, if any, representing the grievant.

16.5 Processing the Formal Grievance:

Step 1.

Within ten (10) days after the formal grievance is filed, the department head or his/her designated representative shall investigate the grievance; shall confer with the grievant and attempt to resolve the issue. The department head has the responsibility after considering all pertinent information, to make a decision in writing.

Step 2.

If the grievance is not resolved to the satisfaction of the employee, he/she may, within five (5) days after the department head's decision, file a written request for a hearing before a Board of Adjustments. The request shall include:

- (1) the specific issue(s) appealed;
- (2) the information to be considered by the Board of Adjustment. The request for hearing shall be filed with the Human Resources Director.

Step 3.

The Board of Adjustment shall conduct a hearing within twenty (20) days from the date of filing of the request. The Human Resources Director shall coordinate and schedule the hearing and forward appropriate notices to interested parties. The Board of Adjustment's responsibilities include:

- (1) thorough review of relevant documents;
- (2) informal taking of relevant testimony;
- (3) the preparation of finding of fact which will be written;
- (4) written decision of the Board signed by all members.

Step 4.

The Human Resources Director shall assist in preparing the written decision of the Board of Adjustment and shall forward that decision to the City Manager, the grievant (and representative if appropriate) and the department head within five (5) days of the hearing. A majority decision of the Adjustment shall be final and binding.

Step 5.

In the event the Adjustment Board fails to reach a majority decision, an Adjustment Board member or members may make a written recommendation to the City Manager.

Step 6.

The City Manager shall review the recommendation of the Board of Adjustment and render a decision. The City Manager shall notify the grievant and the department head of the decision within five (5) days. The City Manager's decision shall be final and binding.

16.6 Board of Adjustments:

The Board of Adjustment is a panel comprised of two (2) employee representatives, no more than one (1) of whom shall be either an employee of the City or an elected or appointed official of a recognized Employee Bargaining Unit, and two (2) representatives of the City, no more than one (1) of whom shall be either an employee of the city or a member of the staff of any organization employed to represent the City.

16.7 Extension of Time Limits:

The above specified time limits may be extended by mutual agreement in writing between the parties. Failure of the employee or the Union to act within the specified time limits, unless extended, shall constitute a withdrawal of the grievance without further recourse to re-submittal. Failure by the City to observe such time limits, unless extended, shall cause the grievance to be moved to the next level of the grievance procedure.

17 PERSONNEL FILES

17.1 General:

The Human Resources Director shall maintain a personnel file for each employee of the City. The personnel file shall include such information as job applications, training records, performance records, disciplinary actions, salary records, and such other information as may be considered relevant to the administration of the City's personnel program. Information of a disciplinary nature shall not be placed in the personnel file unless the affected employee has been provided a copy thereof and has had the opportunity to respond. Employees shall have the right to comment on any item in their personnel file. These comments shall be retained with the information in the personnel file.

17.2 Authorization for Review:

Employees shall have the right to review their own personnel file as provided by the Human Resources Director. The review must be done in the presence of the Human Resources Director or his/her designee. On request, an employee is entitled to receive a copy of any employment-related document he or she has signed. Unless written permission is provided by the employee, or required by law, no information shall be disclosed from the personnel file of a current or former employee other than the employee's job title, date of employment, and department assignment.

17.3 Limited Access:

The City Manager, Assistant City Manager, department head or other authorized supervisor may review appropriate personnel records as necessary.

17.4 Personnel Action Form:

Every appointment, transfer, promotion, demotion, change of salary rate and any other temporary or permanent change in the status of employees shall be affected by the processing of a Personnel Action Form, copies of which shall be transmitted to the department head, Finance Department, the employee and the personnel file.

17.5 Destruction of Records:

Personnel records may be destroyed in accordance with Government Code Section 34090 and Penal Code Section 832.5.

18 FITNESS FOR DUTY

18.1 Physical Examination:

The appointing authority may require any employee whom there is reason to believe may be physically or mentally impaired for work, to undergo an examination by a medical doctor or other qualified health care professional designated by the City at the City's expense. The report of the designated physician shall be forwarded to the appointing

authority. If, as a result of such an examination, it is determined that the employee is incapacitated to perform requisite job duties, the appointing authority may place the employee on a leave of absence without pay until such incapacity is remedied. The employee may use all applicable leaves including but not limited to sick leave, vacation or compensatory time accrued prior to being placed on a leave of absence without pay. Vacation and sick leave credits shall not accrue when an employee is on such unpaid leave of absence.

In lieu of a leave of absence, the appointing authority may reassign the employee to duties as indicated by the examining physician's evaluation.

19 PERFORMANCE REPORTS

19.1 Preparation:

Performance reports on each employee shall be filed by the department head with the Human Resources Director in such form and frequency as shall be required by the Human Resources Director. Each department head or supervisor who has prepared a performance report must discuss the report with the employee and obtain the employee's acknowledgement of discussion of the report thereon, before submitting it to the Human Resources Director. The signature of any supervisor preparing the report, and the department head's signature, shall appear on the performance report.

19.2 Use of Performance Reports:

Performance reports shall be considered by the appointing authority in determining salary increases and decreases, the advisability of transfers, demotions and dismissals, and in promotional examinations. They are highly confidential and are available only to the appropriate supervisor and the affected employee.

19.3 Appeal of Performance Report:

Within five (5) days after receiving a report of performance, an employee may request, in writing, a review of the report with the Human Resources Director. Within five (5) days after said review, the Human Resources Director shall either accept the original report, a modified report, or cause a new report to be prepared which shall be entered into the personnel file as the official report. The official report shall bear the City Manager's signature.

19.4 Non-Grievability:

This section shall not be subject to the grievance procedure in Section 16.

20 TRAINING AND EDUCATIONAL REIMBURSEMENT

20.1 Responsibility for Training:

The City Council encourages the training of employees. Responsibility for announcing outside programs and developing training programs for employees shall be assumed jointly

by the City Manager, the Human Resources Director, and department heads. Such training programs may include lecture courses, demonstrations, assignment of reading matter, or such other methods as may be deemed appropriate for the purpose of improving the effectiveness, skills, and knowledge of City employees to enable them to better perform their respective duties.

20.2 Credit for Training:

Participation in and successful completion of special training courses will be considered in making promotions. Evidence of such activity shall be filed by the employee with the department head, who shall forward a copy to the Human Resources Department for retention in the employee's personnel file.

20.3 Educational Reimbursement Program:

The purpose of the City's educational expense reimbursement program is to encourage employees to undertake training that will increase the value of their services to the City. The objective is to improve the quality of City service delivery by increasing the effectiveness of City employees. It is City policy that a continuous training program results in a higher quality workforce with increased employee motivation and a greater operational efficiency; that employees should be reimbursed for course expenditure providing additional value for the City if that value is consistent with the City's needs; and that the training function in the City will be centralized in Human Resources to provide the necessary organization, planning, coordination, evaluation and fiscal control of the various program elements.

Educational Expense Reimbursement Guidelines:

- (a) Employees must complete their initial probationary period of employment. At such time they may attend courses after receiving prior authorization.
- (b) Application for course approval must be made and approved by the Department Head, Human Resources Director and City Manager/Assistant City Manager prior to registration for any course or training program for which reimbursement is to be claimed.
- (c) Each employee will be entitled to reimbursement for tuition and the cost of books required for approved course(s) to a maximum of \$1,000 per fiscal year per employee. Education reimbursement will not be granted in instances where an employee may receive education incentive or reimbursement through another government program.
- (d) Employees can qualify for reimbursement by receiving a grade of "C" or better if the course is taken for a grade, or "pass" if the course is graded on a pass/fail basis, or successful completion for others as approved by the City Manager.
- (e) For other than graded course(s), the following conditions shall apply:
 - 1) The equivalent number of semester or quarter units must be clearly stated at the time course approval is requested.

- 2) A written notice of course completions, issued by the institution must be submitted to qualify for reimbursement.
- 3) Audited courses are not eligible for reimbursement.

Criteria for Educational Expense Reimbursement:

Tuition reimbursement will be authorized for employees who wish to enroll in coursework that meets the following criteria:

- (a) The course will improve the skills or knowledge required in the employee's present position.
- (b) The course will prepare the employee for significant technological changes occurring in his/her career field.
- (c) The course will assist in preparing the employee for changes in duties due to the different use of a position or class.
- (d) The course will aid in the general development of the employee, which is predictive of increased value in the employee's present position or in preparation for the next higher classification that an employee might logically be prompted to.

Procedures for Obtaining Reimbursement:

- (a) Complete the City of Belmont Educational Expense Reimbursement Form.
- (b) Sign and submit the Reimbursement Form to the Department Head for approval and forward to the Human Resources Director.
- (c) Upon approval by the City Manager, copies will be returned to the employee, Department Head and finance department for reimbursement.
- (d) Upon completion of course work, the employee will submit to the Department Head proof of successful course completion.
- (e) The Department Head will prepare a voucher form for reimbursement and submit along with the department's copy of the Educational Expense Reimbursement Form to the Human Resources Director and City Manager for payment.

21 SAFETY PROGRAM

21.1 Policy:

It is the City of Belmont's policy to have a safe and healthful workplace. To that extent, the City has established a safety program and a central safety committee, which shall

include employee and management representation. The City has also implemented an Illness and Injury Prevention Program, which establishes requirements for safety coordinators, safe practices, training, communication, discipline, accident investigation, periodic inspections, and record keeping. The City Manager has the overall authority and responsibility for environmental health and safety compliance for the City. The Human Resources Director is the designated Safety Director and has the general authority to lead and supervise all aspects of the Illness and Injury Prevention Program.

Members of management are expected to do everything within their control to assure a safe environment and to always be in compliance with federal, state, and local safety regulations. Employees are expected to obey safety rules, follow established safe work practices, and exercise caution in all their work activities. All employees are expected to immediately report any unsafe conditions to their supervisor. Employees at all levels of the organization who are responsible for correcting unsafe conditions must do so.

The following rules are a basic part of the City's Injury and Illness Prevention Program. All employees are required to know and follow these safety rules and all supervisory and management employees are required to enforce them.

1. All injuries must be reported to your supervisor immediately.
2. All employees must report unsafe conditions in the workplace, and defective tools or other equipment to their supervisors immediately.
3. Established safe job procedures must be followed by all employees. Deviations from established procedures require the approval of your supervisor or manager.
4. If an employee is unsure of how to operate a machine or equipment or perform any assigned task, he/she should seek guidance from a supervisor before proceeding.
5. Safety guards and similar devices are never to be removed or otherwise disabled.
6. Personal protective equipment must be worn or used in any area for which it has been issued.
7. Use only the proper tool for the job; defective tools or equipment should never be used. If the proper tool is not available, request assistance from a supervisor before proceeding.
8. Get assistance in lifting any item which is so bulky, awkward, or heavy that you feel unable to lift it safely.
9. If a repetitive task causes you discomfort, or you feel it is unsafe or unhealthy, report it to your supervisor immediately.

21.2 Vehicle Operation:

It shall be the responsibility of all operators of City vehicles to observe the following rules:

- (a) Each operator will, at their responsibility, maintain valid and current licenses for each class of vehicle they operate.
- (b) Seatbelts must be worn when any vehicle is in operation.
- (c) Operators will immediately report any change in their license status or motor vehicle violations that may affect driver eligibility
- (d) Operators are responsible for the condition of their vehicle. Damage or equipment operation concerns shall be reported immediately. Vehicles deemed “not safe” shall not be operated until released for service by the appropriate authority.
- (e) Drivers must report any incident involving the public that may reflect unfavorably upon the City.
- (f) Drivers will take suitable precautions when entering and exiting their vehicles, and when loading and unloading on public streets.
- (g) In the event of an accident, drivers will observe the City guidelines for accident response and emergency reporting.

22 MISCELLANEOUS PROVISIONS

22.1 Smoking Policy:

Smoking is prohibited in all City facilities and vehicles.

22.2 Acceptance of Gratuities:

Any employee who solicits or directly or indirectly accepts any gifts, gratuity, money or check from any person or organization, for either the performance or non-performance of any of the employee's duties, shall be subject to dismissal or disciplinary action.

22.3 Outside Employment:

No full-time employee shall engage in employment other than that of the City, if by determination of the appointing authority, such employment constitutes a conflict of interest for the employee of the City. No employee shall work any outside employment during scheduled City working hours. No emblem, badge or other employee identification shall be worn by any person while in the employment of someone other than the City.

22.4 Employment of Relatives:

The employment of relatives of any City employee or elected City official may be permitted by the City Manager if he/she determines that the efficiency or mission of the City will not be adversely affected by such employment. In general, members of an employee's immediate family will not be employed or assigned to work in a direct supervisory relationship, or in any other position which will pose difficulties for supervision, safety, security, or morale. No employee, prospective employee, or candidate shall be denied employment or benefits of employment solely on the basis of marital status. In all cases of denial of employment of relatives, such denial shall be consistent with the law.

22.5 Domestic Partners:

The domestic partner of an employee shall be defined as an unmarried person, regardless of gender, who resides with the employee and has done so for a period of at least six consecutive months, and who shares responsibility for the common necessities of life. In a domestic partnership neither partner is married to another; both are at least 18 years of age; are not related by blood so close as to bar marriage; are mentally competent to consent to a domestic partnership; and are each others sole domestic partner, intend to remain so indefinitely, and are responsible for their common welfare.

The City will provide domestic partner medical, dental, vision care, employee assistance program coverage to the extent and in the manner in which the health plan carriers allow for the domestic partner's enrollment. Domestic partners are also eligible family members for sick leave and family care leave, consistent with the applicable MOU and these Personnel Rules. In order to be eligible for such domestic partner coverage, domestic partners will be required to complete, sign, and file with the Human Resources department an "Affidavit of Domestic Partnership."

22.6 Political Activity:

Except as specifically allowed by law, City employees are prohibited from participating in political activity while on duty or while performing official City business.

22.7 Changes in Employee Address or Status:

It is the responsibility of the employee to keep the Human Resources Department informed of changes in residence/address, telephone number, marital status, dependents, beneficiaries, military status, person to contact in case of emergency, and any other pertinent information. Notification must occur with fourteen (14) days of the change.

22.8 Civil Defense:

By state law every employee holding an appointment in the City service automatically becomes a civil defense worker in an emergency or disaster. Assignments for each department are stated in the City's emergency operations plan.

23 ANTI-HARASSMENT POLICY

23.1 Introduction:

The City of Belmont recognizes the need to adopt a policy to ensure a working environment free from all forms of harassment. The City has a zero tolerance policy in regard to harassment. Zero tolerance means that the City will investigate all incidents and take appropriate action against the offending employee or non-employee who violates this policy. Actions, words, jokes, or comments based on such characteristics as race, color, religion, national origin, ancestry, disability, medical condition, marital status, sex, sexual orientation, or age are prohibited. Those subject to this policy include all employees (including regular, temporary, and contract), supervisors, managers, volunteers, and elected officials. The policy defines harassment and provides employees with an

understanding of the liabilities and consequences involved with harassment. The directive of the City Council is that management, administrative, supervisory personnel, and employees at all levels of City government share in the responsibility of ensuring a working environment free of harassment.

Current law and this policy focus on the interpretation of the victim and not the intent of the harasser. It is important to note that an employee can be in violation of this policy even if he or she did not intend to harass. It is not one's intentions but one's actual behavior that is analyzed in a complaint.

The City recognizes the uniqueness to each allegation. When determining whether or not alleged conduct violates this policy, the totality of each circumstance will be investigated and evaluated. All incidents will be reviewed on a case-by-case basis.

This policy is not to be construed as prohibiting mutually welcome social relationships between employees that have no bearing on employment conditions, decisions or benefits.

23.2 Policy Statement:

The City of Belmont opposes all forms of harassment on the job and in the worksite, including acts of employees and non-employees. The City is committed to providing a work environment in which employees are treated with respect and dignity and which is free from harassment. Harassment based on race, color, religion, national origin, ancestry, disability, medical condition, marital status, sex, sexual orientation, or age violates the City's policy and will not be tolerated. Reports of such occurrences will be thoroughly investigated and appropriate disciplinary action will be taken up to, and including, termination if appropriate.

Prevention is the best tool for the elimination of harassment. The City of Belmont will take all steps necessary to prevent harassment from occurring. These steps include: affirmatively raising awareness of this subject through training and this written policy; expressing strong disapproval of inappropriate conduct; and developing appropriate sanctions.

23.3 Definition:

Because the City is committed to a workplace free from harassment of any kind, the City's policy sets a higher standard for behavior than is set by the law. Under both state and federal law, illegal harassment occurs when it is based on a person's protected class (race, color, religion, national origin, ancestry, disability, medical condition, marital status, sex, sexual orientation, or age) and the harassment reaches a level that is sufficiently severe and pervasive to alter a person's working conditions. However, the City's policy against harassment covers all harassing behaviors based on a person's protected class whether or not it would be found to be illegal.

Harassment includes but is not limited to:

Verbal Harassment

Examples can include epithets, derogatory comments, jokes or slurs on the basis of a protected class (race, color, religion, national origin, ancestry, disability, medical condition, marital status, sex, sexual orientation, or age). Verbal harassment may also include sexual innuendo jokes, suggestive sounds, or stories of a sexual nature.

Physical Harassment

Examples can include pinching, grabbing, patting, leering, staring, or touching. Other examples could be blocking movement or interfering with a person's normal work when directed at the person because of his/her protected class (race, color, religion, national origin, ancestry, disability, medical condition, marital status, sex, sexual orientation, or age). Physical harassment may include any kind of unwanted physical contact.

Visual Harassment

Examples can include posters, cartoons, gestures or written materials which discuss or depict people based on their race, color, religion, national origin, ancestry, disability, medical condition, marital status, sex, sexual orientation, or age. Visual harassment may also include Internet sites or other electronic media of a sexual or offensive nature.

Unwanted Sexual Advances

Unwelcome sexual advances can include requests for sexual favors and other verbal and/or physical conduct of a sexual nature when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

Sexual Harassment

Sexual harassment is a specific type of gender harassment, which can take any of the forms of harassment described above. Sexual harassment under this policy refers to unwelcome conduct of a sexual nature or that is based on sex that has the effect of interfering with a person's work performance or creating an intimidating, hostile, or offensive work environment. Included under the umbrella term of sexual harassment are overt forms of harassment such as making employment benefits conditional on sexual favors, as well as much more subtle forms. Sexual harassment includes behavior by women directed at men, by men directed at women, same sex harassment, and harassment based on sexual orientation.

23.4 Standards of Behavior

Any conduct which discriminates or harasses a person covered by this policy on the basis of race, color, religion, national origin, ancestry, disability, medical condition, marital status, sex, sexual orientation, or age violates the City's policy and will not be tolerated.

Employees come to work with different backgrounds and experiences, so it is natural that various levels of sensitivity are represented. Well-meaning people can disagree about

what is offensive or inappropriate. In order to clarify what type of behavior is acceptable and unacceptable in the workplace, the following examples are provided as a means of offering guidance and promoting a comfortable and harassment-free work environment for all.

Prohibited conduct includes, but is not limited to:

- (a) Disparaging or offensive comments or jokes about a person's race, color, religion, national origin, ancestry, disability, medical condition, marital status, sex, sexual orientation, or age.
- (b) Any behavior or practice which treats an individual differently because of his or her race, color, religion, national origin, ancestry, disability, medical condition, marital status, sex, sexual orientation, or age.
- (c) Systematic exclusion of an individual because of his or her race, color, religion, national origin, ancestry, disability, medical condition, marital status, sex, sexual orientation, or age.
- (d) Using slang names or labels related to race, color, religion, national origin, ancestry, disability, medical condition, marital status, sex, sexual orientation, or age.
- (e) Ignoring or failing to take seriously a person who reports or complains of harassment.
- (f) Blaming the person who reports or complains of harassment, or suggesting that they are "thin skinned," "too sensitive," or they lack a sense of humor.
- (g) Continuing behavior directed toward a person's race, color, religion, national origin, ancestry, disability, medical condition, marital status, sex, sexual orientation, or age, once a person has objected to the behavior.
- (h) Displaying sexual or offensive pictures, cartoons, or calendars.

23.5 Retaliation

Retaliation against a person bringing a complaint or against a person participating in an investigation of a complaint is strictly prohibited. Those engaging in retaliatory behavior will be subject to discipline up to and including termination. Retaliatory conduct includes but is not limited to imposition of unwarranted discipline, denial of promotion, or being shunned as a result of raising a complaint of harassment or supporting a claim of harassment. Employees cannot be treated differently or punished in any way for raising a complaint or cooperating in an investigation.

23.6 Responsibilities For Policy Implementation:

The following is a list of the responsibilities assigned to city staff to ensure the policy is enforced:

Department Heads:

Department Heads are responsible for distributing this policy statement to current and new employees and for directing complaints to the Human Resources Director.

Employees:

All City employees are responsible for adhering to this policy and for following the guidelines set forth in this policy; promptly reporting incidents of harassment so that proper action can be taken; cooperating fully in any investigation concerning allegations of harassment; and maintaining confidentiality concerning any investigation that is conducted.

Supervisors:

Supervisors must take all steps necessary to prevent harassment from occurring by: example; education; expressing strong disapproval of inappropriate conduct; informing employees of their rights to raise the issue of harassment; maintaining awareness of employee interactions in the workplace to insure they are appropriate; remaining vigilant to ensure the provisions of the policy are enforced; and ensuring that the person who complains of harassment is not subject to any form of retaliation as a result of bringing the complaint forward.

If a complaint is made, direct the complaint to the Human Resources Director.

City Manager:

The City Manager is responsible for ensuring the policy is enforced citywide.

Human Resource Director:

The Human Resources Director is responsible for investigating all complaints of harassment and for taking appropriate action (including enlisting an outside consultant to investigate the complaint), as well as for providing City-wide "awareness" training and management/supervisory training. The training is to cover the following: definition of harassment; the distribution and explanation of City's policy; and instruction on how to use the Harassment Complaint Procedure. The management/supervisory training is to cover the legal bases and practical consequences of harassment and the employer's responsibility for preventing and controlling such activity.

23.7 Complaint Procedures:

- (a) An employee who believes he or she has been harassed may make a complaint verbally or in writing to any of the following:
 - Immediate supervisor
 - Any supervisor or manager within or outside the department
 - Any Department Head
 - Human Resources Director

- (b) Any supervisor, manager, or department head who receives a complaint must notify the Human Resources Director immediately.
- (c) Upon receiving notification of a harassment complaint, the Human Resources Director shall:
 - 1. Investigate the complaint and/or authorize and supervise the investigation of the complaint by an outside agent. The investigation will include interviews with the complainant, the accused harasser, and any other persons the Human Resources Director has reason to believe have relevant knowledge concerning the complaint. This may include victims of similar conduct.
 - 2. Review the factual information gathered through the investigation to determine whether the alleged conduct constitutes harassment, taking into consideration all factual information, the totality of circumstances, including the nature of the verbal, physical, visual, or sexual conduct, and the context in which the alleged incidents occurred.
 - 3. Report the results of the investigation and the determination as to whether harassment occurred to the appropriate persons, including the complainant, the alleged harasser, the supervisor, and the department head. If discipline is imposed, the specific discipline will not be communicated to the complainant.
 - 4. If harassment occurred, take and/or recommend to the appointing authority prompt and remedial action against the harasser. The action will be commensurate with the severity of the offense.
 - 5. Take reasonable steps to protect the complainant from further harassment.
 - 6. Take reasonable steps to protect the complainant from retaliation as a result of making the complaint.

23.8 Consequences of Harassment:

It is important to highlight the seriousness of a harassment charge. If charged with harassment, there are several undesirable consequences:

- An internal investigation that could result in a written letter of reprimand, suspension, demotion, transfer or termination.
- A civil lawsuit against the harasser personally and against the City.
- A civil injunction can be placed against the harasser, which could prohibit him or her from being anywhere near the person who was harassed.

24 DRUG FREE WORKPLACE POLICY

24.1 Background:

In 1988, the Federal Government passed the Drug Free Workplace Act. This Act requires local government recipients of federal grants to publish a statement prohibiting controlled

substances in the workplace. To comply with the Act, and to reflect the City's position on alcohol and drug problems, the following policy has been established.

This policy statement reflects the City of Belmont's position on alcohol and drug problems. It is intended to deter informal practices that may exist in connection with alcohol and drug problems, especially those that lead to the cover-up and protection of the abuser. The policy puts a responsibility on management to be aware of unsatisfactory or still acceptable but deteriorating job performance, and to follow the policy guidelines when appropriate. The policy also puts responsibility on the employees to seek help or referral if an alcohol or drug related problem exists.

24.2 Policy Statement:

It is the City of Belmont's policy to maintain a drug free workplace. While the City has no intention of intruding into the private lives of its employees, involvement with alcohol and drugs on and off the job can take its toll on job performance and employee safety. Our concern is that employees are in a condition to perform their duties safely and efficiently, in the interests of their fellow workers and public as well as themselves. The presence of alcohol and drugs on the job, and the influence of these substances on employees during working hours, are inconsistent with this objective and are prohibited. If an employee has an alcohol or drug problem, the City will refer the employee for treatment and maintain confidentiality. The City recognizes and supports that alcohol and drug problems are treatable.

For purposes of this policy, an alcohol or drug problem exists when consumption of, or use of, alcohol or drugs interferes with job performance and/or attendance.

24.3 Policy Guidelines:

24.3.1 This policy covers all City employees.

24.3.2 Employees shall not illegally manufacture, distribute, dispense, possess, or be under the influence of, alcohol or drugs while at the workplace. Penalties may be imposed upon employees for violations of the policy that may result in discipline in accordance with the City's disciplinary procedures. Prescription medication, and over-the-counter medication, taken in connection with a medical condition of the employee are excluded from this policy. However, the employee shall notify his/her supervisor in the event such medication has an effect on the employee's performance.

24.3.3 Any employee convicted for violating any state or federal criminal drug law by an action committed in the workplace must notify the City within five (5) calendar days of the conviction.

24.3.4 It is the responsibility of the employee to adhere to the policy guidelines. Employees who think they may have an alcohol or drug use problem are urged to voluntarily seek confidential assistance from an Employee Assistance Program Counselor, their personal

medical insurance plan, or a substance abuse treatment program. Access to the EAP is strictly confidential.

24.3.5 It is the responsibility of management/supervisory staff to notice changes in work behaviors and patterns that adversely affect job performance. Management/supervisors are not to attempt to diagnose alcohol or drug problems but are to document, in written form, work related incidents (such as attendance or safety) and are to refer employees whose work performance has deteriorated to the City's Employee Assistance Program. Referral to the Employee Assistance Program is not mandatory, and is intended to be a constructive tool in improving an employee's performance.

24.3.6 Once referred to the Employee Assistance Program, it will be the responsibility of the employee to seek diagnosis and to cooperate with the prescribed treatment, if treatment is deemed appropriate by the Employee Assistance Program. Failure to pursue the referral to the Employee Assistance Program, or failure to follow prescribed treatment, will be a factor in future action taken if problems in job performance or attendance continue to persist.

24.3.7 The individual's rights to confidentiality and privacy are recognized. The pertinent information and records of employees with an alcohol or drug problem will be preserved in the same manner as all other confidential records.

24.3.8 The City establishes an ongoing drug-free awareness program to inform employees about: the dangers of drug abuse in the workplace; the City's policy of maintaining a drug-free workplace; any available employee assistance programs; and penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.

25 MANDATORY ALCOHOL AND CONTROLLED SUBSTANCE TESTING POLICY FOR COVERED EMPLOYEES

25.1 Introduction:

It is the City of Belmont's policy to ensure compliance with the Omnibus Transportation Act of 1991 and the implementing regulations promulgated by the Federal Highway Administration. These regulations address the screening of controlled substances and alcohol for employees who perform safety-sensitive duties and for whom a commercial driver's license is required.

The City has developed the following procedures which are designed to familiarize covered employees with basic information on how testing will be accomplished in each of the categories of testing, how test results will be communicated and held confidential, and how employees may obtain retests. All employees in covered classification will be given a copy of the policy and these administrative procedures, be required to read and sign an acknowledgment of its receipt, be provided with initial and periodic retraining, and an employee assistance program (EAP) informational

pamphlet. The City encourages employees, prior to testing, to voluntarily disclose and seek assistance for any substance abuse problem through the Personnel Division and Employee Assistance Program, health plan or other outside agencies. The City also encourages employees to disclose prescribed medications and their effects to avoid consequences connected with positive test results due to this reason. All testing will be handled in compliance with federal and state regulations and any changes to the regulations will be incorporated into the policy and administrative procedures.

25.2 Safety Sensitive Functions:

Safety-sensitive functions commence at the time a driver begins to work or is required to be in readiness to work in any assignment, until the time he/she is relieved from work and all the responsibility of performing work, including actually performing, being ready to perform, and/or immediately available to perform. Safety-sensitive functions include driving the vehicle, performing maintenance on the vehicle, inspecting the vehicle, loading/unloading the vehicle the vehicle and supervising or assisting the loading/unloading of a vehicle.

25.3 Classifications Covered:

Federal and State regulations apply to holders of a commercial driver's license who operate vehicles: (a) in excess of 26,000 pounds; or (b) carrying fifteen (15) or more passengers; or (c) transporting hazardous materials. The following City classifications are subject to testing as outlined in this policy.

Maintenance Worker
Equipment Operator
Mechanic

Senior Maintenance Worker
Public Works Services Manager
Senior Mechanic

25.4 Prohibited Substances:

Alcohol: Covered employees are prohibited from using alcohol in the following circumstances: (a) within four hours prior to performance of safety-sensitive duties including a stand by coverage; and (b) while on the job. Possession of alcohol on the job and use of alcohol after an accident during the time preceding a test are also prohibited. Alcohol is defined to include: beverage alcohol, and ethyl and other low molecular weight alcohols including methyl and isopropyl alcohols. A Breath Alcohol Concentration (BAC) of 0.02 or higher is prohibited. Refusal to be tested under this policy will result in discharge.

Controlled Substances: Covered employees are prohibited from the use of controlled substances including marijuana (THC), cocaine, opiates, phencyclidine (PCP), and methamphetamines. Use, manufacture, possession, transfer, and distribution of controlled substances are prohibited on duty. Refusal to be tested under this policy will result in discharge.

25.5 Mandatory Testing:

Regulations require breath testing using evidential breath testing devices (EBT) approved by the National Highway Traffic Safety Administration. A screening test is to be conducted first, with any result of less than 0.02 considered a “negative” test. If the alcohol concentration is 0.02 or greater then a second or a confirmation test must be conducted. Testing devices and procedures are subject to change pursuant to changes or amendments in the regulations.

Controlled substances include marijuana, cocaine, opiate, phencyclidine (PCP), and methamphetamines are prohibited. Testing for controlled substances will be conducted by using urine specimens. Any employee who occupies a covered classification who has been placed on a prescription drug(s) that may affect job performance is encouraged to present a statement for his/her physician describing the effect(s) of such drug(s) on the employee’s performance.

25.6 Pre-Employment Testing:

Outside applicants for, or current employees seeking to transfer (including both promotion and demotion) into a covered position will be required to submit to testing before or after an offer to hire, but before actually performing safety-sensitive duties. Transfer candidates will be tested upon obtaining a Class B driver’s license. If a transfer candidate is currently performing a safety-sensitive function at the time of his/her application requesting a transfer, such employee will not be required to submit to testing as part of the selection process.

Should an outside applicant refuse to test or test positive, then a said applicant will not be hired and will not be entitled to a retest. Transfer candidates who decline to be tested will not be considered further. Transfer candidates who test positive may, upon written request received by the Personnel Division within seven calendar days from the date the candidate was notified, have their sample retested at their own expense. If no request is timely received, or should there be a second positive result, then the transfer candidate will remain in his/her current non-safety position but may be subject to disciplinary action based on the City’s Personnel Rules and Regulations or other City policies.

25.7 Random Testing:

Employees in covered positions are subject to unannounced testing on City time based on random, computer generated selection just before, during or just after the performance or reasonable expectation of being assigned to safety-sensitive functions. For alcohol, the number of random tests conducted must equal at least Fifty percent (50%) of all employees in covered positions. For controlled substances, the number of random tests conducted must equal at least twenty-five (25%) of all employees in covered positions.

The employee's identification number will be used in lieu of name for random selection. Employee identification numbers of all individuals in covered classifications will be placed in a random testing pool, from which a random selection will be made. All full-time, part-time, and casual employees in covered classifications will be included. Employees selected for random testing will be advised in person or by direct telephone contact and directed to the collection site. Following a selection of random testing, the employee's identification number will be immediately returned to the pool for future selection. As such, some employees may be randomly selected more frequently than others, and some not selected at all.

25.8 Reasonable Suspicion Testing:

When there is reasonable suspicion based on direct observation and description by a trained supervisor with concurrence by another management employee of specific appearance, behavior, speech and/or body odors characteristic of being under the influence of a controlled substance, alcohol or alcohol misuse, the employee will be escorted to a testing facility. Any of the following, alone or in combination, may constitute reasonable suspicion:

- a. Presence of physical symptoms of drug or alcohol use, i.e., glassy or bloodshot eyes, alcohol odor on breath, slurred speech, poor coordination or reflexes.
- b. Behavior which is so unusual that it warrants summoning a supervisor or anyone else in authority.
- c. Possession of alcohol, drugs, or drug paraphernalia.
- d. Direct observation of drug or alcohol use.
- e. Work related accidents resulting in \$5,000 property damage or personal injury,

The above list of factors is not exhaustive and is provided so as to assist both employees and management in understanding the types of behavior that will be found to constitute a reasonable suspicion. Suspicion is not reasonable if it is based solely on third party observation or reports.

After being tested for controlled substances the employee will be placed on administrative leave until the results are received. If the results are positive, the employee will reimburse the City for administrative leave time. If the result of an alcohol test is positive, the employee will be provided with transportation from the site to home after the testing is complete. If results are negative, the employee will be returned to work.

Although an employee may be tested immediately, the observing supervisor will document a description of the indicators leading to the reasonable suspicion testing. Documentation of the employee's conduct shall be prepared and signed by the witness within twenty-four (24) hours following the observed behavior.

25.9 Post-Accident Testing:

Post accident testing must be conducted as soon as possible (within two hours but not later than thirty-two hours) after an accident. An accident is defined as an occurrence involving a City vehicle which results in (1) a fatality; or (2) injury to a person requiring immediate treatment away from the scene of the accident; or (3) damage to a vehicle requiring it to be towed from the scene.

An employee may leave the scene to obtain emergency medical assistance if he/she remains readily available for testing. An employee who leaves the scene of an accident before testing or fails to remain readily available for testing may be deemed to have refused to submit to testing and will be discharged.

All reasonable steps will be taken to obtain a urine sample and/or breath test from an employee after an accident. In the case of a conscious but a hospitalized employee, the hospital or medical facility will be requested to obtain a sample and, if necessary, reference will be made to these mandatory testing requirements. If an employee is unconscious or otherwise unable to consent to the procedure, the treating physician will determine when the employee is able to understand a request to provide a sample. In the case of a conscious but a hospitalized employee, the hospital will be requested to ask the employee for the sample.

Employees who work in positions covered under the policy and whose performance contributed to an accident, or who performance cannot be completely discounted as a contributing factor may also be tested (such as mechanics, employee passengers, supervisors). If reasonable suspicion is also a factor in a post accident situation, the employee will be transported home following testing. After being tested for controlled substances the employee will be placed on administrative leave until the results are received. If the results are positive, the employee will reimburse the City for administrative leave time.

25.10 Return to Duty and Follow-Up Testing:

An employee who does not pass a required test and who is not discharged may not perform a safety-sensitive function until he/she passes a test and the Substance Abuse Professional (SAP) have determined that the employee may return to work. An employee who at the recommendation of the SAP returns to work after rehabilitation will be given unannounced tests, as scheduled by the SAP. These tests are in addition to the other types of tests outlined in the policy. Following an employee's return to work as outlined above, he/she will be required to undergo a minimum of six (6) follow-up tests within the first twelve (12) months of her/her return to work. Follow-up testing may be extended for up to sixty (60) months. This period will be determined by the SAP based upon the individual circumstances of the case. The frequency of testing will be determined by the SAP and may be required on a daily, weekly or monthly basis.

25.11 Test Procedures:

The City adheres to Department of Transportation regulations when administering contractual services for breath alcohol testing and urine specimen collection under this policy. The following procedures are common to Pre-employment, Random Testing, Reasonable Cause, and Post-Accident. Upon arrival at the collection site, an employee must provide the collection agent with photo identification and an authorization form. For employees (i.e., not applicants for employment), all time consumed by testing procedures will be considered part of the workday.

Alcohol:

Two breath tests are required too determined if a person has a prohibited alcohol concentration. A screening test is conducted first. Any result of less than 0.02 alcohol concentrations is to be considered a negative test. If the alcohol concentration is 0.02 or greater, a second or a confirmation test must be conducted. The employee and breath alcohol technician complete the alcohol testing form to ensure the results are properly recorded. The confirmation test must be conducted using an EBT that prints out the results, date and time, a sequential test number, and the name and serial number of the EBT to ensure the reliability of the results. The confirmation test result determines any actions taken.

Controlled Substances:

In the case of controlled substances testing, the employee will be required to complete a chain-of- custody form, the purpose of which is to ensure proper identification, handling, and confidentiality of the specimen. The individual should be told not to provide any information about prescriptions or over-the-counter medications on the chain-of custody form. The laboratory will perform screening of the specimens using a technique known as immunoassay. All positive results will be confirmed using a second technique known as gas chromatography/mass spectrometry.

Employees must remain at the collection site until they can and do fully comply with collection site instructions. If the employee is unable to provide at least 45 ml of urine, he/she will be instructed to drink not more than 24 ounces of fluid during a period of up to two hours. The employee will then be directed to provide another specimen and if he/she provides 45 ml of urine, the first specimen will be discarded.

If the employee fails to provide 45 ml of urine, both specimens will be discarded and the employee referred to the MRO, who will refer the employee for medical evaluation to determine whether the individual's inability to provide an adequate specimen is genuine or constitutes a refusal to submit to a drug test. Under the pre-employment testing, applicants who do not provide 45 ml of urine in either the first or the second specimen will not be referred to the MRO and will not be considered further in the selection process.

The specimen will be sealed and labeled by collection site personnel. The employee will observe and verify the sealing and labeling. The specimen will be transported to a laboratory for actual testing.

If an employee adulterates a specimen for alcohol or drug testing or otherwise falsifies or attempts to falsify the testing process or results, such employees will be subject to disciplinary action up to and including discharge. In certain circumstances the specimen collection may be monitored. If there is reason to believe that an individual had adulterated the specimen or otherwise compromised the collection process, that individual will be asked to provide a specimen under the direct observation of a same-gender collection site person. The following circumstances may result in an individual being required to provide a specimen under direct observation:

- a) The employee has presented a urine specimen that falls outside the normal temperature range, (90.5 - 99.8F) has declined to provide a measurement of oral body temperature by sterile thermometer or shows an oral temperature that does not equal or exceed that of the specimen.

- b) The later urine specimen provided by the employee (i.e., the most recent test was determined by the laboratory to have a specific gravity of less than 1.003 and a creatinine concentration below .2g/L.
- c) The collection site person observes conduct clearly and unequivocally indicating an attempt to adulterate the specimen (as examples, substituting urine in plain view or presenting a specimen containing blue dye).
- d) The employee has previously been determined to have used a controlled substance without medical authorization and the particular test is being conducted as part of a rehabilitation program, return to duty following rehabilitation, or follow-up testing after return to duty.

An employee or applicant for employment who does not pass a drug test administered under this policy may request that the original split-sample urine specimen be retested by submitting a written request to the MRO with seventy-two (72) hours of the employee's initial notice of the original test result. The MRO is the only person authorized to order a reanalysis of the original sample. The employee may specify that the retest be performed by either the original laboratory or a second DHHS-laboratory that does not currently contract with the City. The original laboratory will follow proper chain-of-custody procedures in transferring the sample to the second laboratory. The retest results will be communicated to the MRO. The employee or applicant for employment will pay any costs associated with a retest.

For Both Alcohol and Controlled Substances

If the employee refuses to cooperate with the collection process, the collection site person will inform the employer's representative and will fully document the non-cooperation on the urine custody and control form. Failure to cooperate may result in disciplinary action, up to and include discharging.

All test results will be reported by the laboratory to the Medical Review Officer (MRO), who is a licensed physician with knowledge of substance abuse disorders, in a manner designed to ensure confidentiality of the information. Urine specimens confirmed positively by gas chromatography/mass spectrometry will be reported as positive by the laboratory to the MRO.

The MRO will contact the individual employee to ask about prescriptions and over the counter medications that the individual may have taken, giving the individual an opportunity to discuss the test results with him/her before reporting the test as positive to the City. The employee will be given twenty-four (24) hours to respond to the MRO's attempt to contact him/her. Failure to respond within that time frame will cause the MRO to request that the city contact the employee and direct him/her to contact the MRO immediately and the MRO will report to the city that the employee is not medically qualified to perform safety sensitive duties. After an appropriate review, or following passing of 24 hours without response from the employee, the MRO will report a test result to the Human Resources Department.

25.12 Medical Review Officer (MRO) and Substance Abuse Profession (SAP)

The City will contract with a qualified Medical Review Officer (MRO) for services and responsibilities including, but not limited to:

- a) Review the results of all alcohol and drug tests.
- b) Review and interpret positive test results.
- c) Request, if needed, a quantitative description of test results.
- d) Receive a certified copy of the original chain-of-custody form.
- e) Inform the tested individual and provide test results.
- f) Conduct a medical review of the tested individual.
- g) Review the individual's medical history, or any other relevant medical factors.
- h) Give the tested individual an opportunity to discuss his or her results.
- i) Order a reanalysis of the original sample in a certified laboratory upon receiving a timely request.
- j) Not receive urinalysis results that do not comply with the Mandatory Guidelines for Federal Workplace Drug Testing Programs.
- k) Not declare a test result as positive for opiates without clinical evidence.
- l) Determine whether a result is scientifically insufficient.
- m) Forward results of verified positive tests to the City's representative.
- n) Maintain the required records to administer this program.

The MRO, after appropriate review, will report test results to the City. In the event of a positive test result, the MRO will give the tested individual an opportunity to discuss the test result with him/her before reporting the result as positive to the City. The MRO will inform the individual before beginning the verification interview that the MRO could transmit to appropriate parties information concerning medications being used by the employee or the employee's medical condition only if, in the MRO's medical judgment, the information indicated that the employee may be medically unqualified under applicable DOT rules. If the MRO determines that there is a legitimate explanation for a positive test result, the MRO will report that result to the City as negative. In the event of a negative test result, the MRO will report the result to the City as negative.

The City will contract for a Substance Abuse Professional (SAP) who will provide referrals to, monitoring of, and verification of successful treatment, rehabilitation and coordination of return to duty testing where applicable. The employee has 30 calendar days after a positive test result has been reported to the City to evaluate his/her situation with the SAP.

25.13 Test Results:

All test results will remain confidential, whether maintained by the laboratory, the MRO, the SAP, or the City. Individual test results may be released to a third party only if the test individual signs a specific written authorization to release the results to an identified person or organization. The MRO will provide to the individual his or her test results upon request by the individual. The MRO will provide to the individual his or her test results upon request by the individual. The City may not release test results without the written authorization of the test employee, except where ordered to do so by proper legal authority. The City, or its contractor, will provide a summary date of

drug and alcohol testing results to the DOT Administrator or designee, as required by the DOT regulations.

25.14 Mandatory Sanctions Based on Positive Test Results:

Employees must be removed from safety sensitive duty. They will not be temporarily assigned to non-safety sensitive duties but rather placed on paid leave pending disciplinary action.

The employee cannot be returned to safety sensitive duties until he/she has been evaluated by a SAP or MRO, has complied with recommended rehabilitation, and has a negative result on a return to duty controlled substances or alcohol test.

Per California Department of Motor Vehicle regulations, failure to submit to post fatality testing will result in the loss of the driver's license for one year. A valid driver's license is required for covered classifications and, consequently, the employee who fails to submit to post a fatality test will be discharged.

25.15 Consequences:

Employees may be subject to disciplinary action up to and including discharge as provided below if they test positive for alcohol or controlled substances specified in this policy.

- a. Any employee covered by this policy who refuses to be tested will be discharged immediately.
- b. A positive test result in a prequalification for transfer or promotion will result in disqualification from appointment and the City may take disciplinary action.
- c. A positive test result of controlled substances in post accident testing will result in disciplinary action up to and including termination.
- d. A positive test result of alcohol in post accident testing will result in disciplinary action up to and including termination.
- e. Any covered employee who fails an alcohol or a drug test will immediately be removed from safety sensitive duties. The City may, on a one-time referral basis, offer rehabilitation or treatment either under the employee assistance program or medical plans or other available community resources, only as recommended by the SAP. If the SAP recommends an inpatient treatment program, the employee has up to fifteen days to enter the rehabilitation treatment center after approval of unpaid leave of absence. Rehabilitation will not be used to mitigate disciplinary action.
- f. The City will follow the final recommendations of the SAP, in consultation with the rehabilitation treatment professional as to the appropriate after-case protocol and post rehabilitation return to duty testing.

- g. An employee's failure to participate and/or complete the recommended treatment, or a positive test result following treatment in the return to duty testing phase, will result in discharge.
- h. All return to work approvals must be issued by the SAP, whose evaluation, recommendations for treatment and release to work will be considered final.

25.16 Records Retention:

The MRO is the sole custodian of the individual test results. The MRO will retain reports of individual positive test results for a minimum of five years. Individual negative test results will be maintained for at least twelve months. The City will maintain only such information required to document compliance with the testing requirements.

The City will keep detailed records of the alcohol and drug testing program which is subject to inspection and/or audit by DOT and/or the Federal Highway Administration:

Two Years: The City will retain records documenting the collection process for the alcohol and controlled substance tests and the training of supervisors.

Five Years: The City will retain the following records: records of the number of positive test results, alcohol tests which indicate a concentration level of .02 or higher, any employee refusal to submit to tests, calibration document and employee evaluations and referrals to substance abuse professionals.

Records will be held in a confidential medical file.

25.17 Employee Assistance Program:

The City will provide employees with information on alcohol and drug use and treatment resources:

- a. Information regarding alcohol and substance abuse will be distributed and displayed in work areas.
- b. Copies of this Policy and Administrative Procedure will be distributed to each employee in all covered classifications.
- c. Information regarding the Employee Assistance Program will be given to all employees covered under this policy. A contract number for EAP will be posted.
- d. If an employee voluntarily refers himself/herself to the Employee Assistance Program before being required to undergo testing and provides a letter from the EAP professional certifying same, consideration will be given to this in a subsequent disciplinary action. However, voluntary self-referral to the Employee Assistance Program after notification of a required test will not eliminate the requirements to take such tests nor will it preclude disciplinary action against the employee who fails or refuses a required test.

25.18 Training:

A minimum of one hour of training for each covered employee and supervisor will be provided initially and annually thereafter. Information on this policy and substance abuse in general will be covered. For supervisors, additional training on the specific, contemporaneous physical, behavioral and performance indicators of probably substance use and abuse and appropriate documentation of reasonable suspicion and post accident referrals to testing will be provided.

25.19 Appeals:

If an employee believes the policy and procedures contained herein have been violated, misapplied or misinterpreted, he/she may communicate those concerns in writing to the Human Resources Director within seven calendar days of the testing date. The Human Resources Director will respond in writing within five calendar days. If the response is not to the employee's satisfaction, the employee may appeal to the City Manager within seven days following receipt of the Human Resources Director's response. The City Manager will make a final and binding decision within ten calendar days following receipt of the employee's appeal.

If an employee wishes to appeal the disciplinary action taken based on positive test results or refusal to be tested, then the grievance process outlined in the employees' Memorandum of Understanding (for regular classifications only) or the City's Personnel Rules and Regulations (for casual classifications only) will govern.

26. POLICY AGAINST VIOLENCE IN THE WORKPLACE**26.1 Purpose:**

The purpose of this personnel procedure is to establish a policy that prohibits violence or the threat of violence in the workplace, and to set forth procedures for preventing, reporting, and responding to situations in the workplace that may pose an actual or potential threat of violence to City employees. This policy also serves to supplement the City's Injury and Illness Prevention Program regarding workplace security.

26.2 Personnel Affected:

This prohibition against workplace violence applies to all persons involved in City operations, including but not limited to City employees, contract workers, temporary employees, volunteers and anyone else on City property or conducting City business off City property.

26.3 Policy Statement:

The City of Belmont is committed to providing a work environment that is free of violence or the threat of violence. The City has a zero tolerance policy in regard to workplace violence. Zero tolerance means that the City will investigate all incidents and take appropriate action against the offending employee or non-employee who violates this policy.

26.4 Consequences for Violation of this Policy:

For City employees, disciplinary action, up to and including termination, without progressive discipline and after only a single incident of workplace violence as defined in this policy. There also may be resulting legal action. For example, making a threat can constitute a crime that is punishable by imprisonment of up to one year.

For non-City personnel, oral and or written warning by Department management; refusal of service; and/or criminal prosecution or other legal action.

26.5 Prohibited Items:

Employees, contract workers, temporary employees and volunteers shall not possess the following items in the workplace, including in private vehicles at work, unless the item has a work-related purpose and the employee has received prior approval, in writing, by his/her Department head to possess such items at work:

1. Firearms;
2. Explosives or ammunition;
3. Tear gas weapon, taser or stun gun;
4. Fixed blade knives;
5. Folding knives with blades over 4 inches in length;
6. BB gun, paint gun, or any instrument that expels a projectile through the force of air pressure, CO₂ pressure or spring actions; and/or
7. Any other deadly weapon.

26.6 Prohibited Conduct:

Acts or threats of violence include conduct that creates a hostile, abusive or intimidating work environment. Examples of violent acts or threats of violence that are prohibited in the workplace include, but are not limited to:

1. Striking, punching, slapping, shoving, grabbing, pinching or assaulting another person;
2. Threatening bodily harm or any other conduct that implies the threat of bodily harm;
3. Fighting or challenging another person to fight;
4. Threatening to destroy or actually destroying City property and/or property of City employees;
5. Throwing objects with the intent to injure or harm;
6. Making or instigating harassing or threatening telephone calls, electronic or computer graphics and messages;
7. Surveillance or stalking;
8. Possession, use, or threat of use of a gun, knife or other weaponry on City property unless such possession and use is a requirement of the employee's job and is done so in accordance with the Department's policy;
9. Engaging in threatening, dangerous or unwanted horseplay; and/or
10. Any conduct resulting in the conviction under any penal or criminal code provision relating to violence or threats of violence.

26.7 Employee Responsibilities:

Any employee who is the victim of any violent or threatening conduct, any witness to such conduct or anyone receiving a report of such conduct, whether the perpetrator is a City employee or a non-employee, shall immediately report the incident to his/her direct supervisor, department head, or the Human Resources Director. Any act or imminent threat of violence should be reported to the Belmont Police Department through the 911 operator for its immediate response to potential criminal conduct.

Should the employee perceive that he/she has just been victimized by a violent act, is in immediate danger of a violent act, or is a witness of a violent act, the employee shall, whenever possible:

- a. Place him/herself in a safe location;
- b. If appropriate, call the Belmont Police Department and be prepared to inform the police dispatcher of the circumstances and the exact location of where an officer is needed;
- c. Inform his/her direct supervisor, department head or the Human Resources Director of the circumstances;
- d. Refer media inquiries to his/her Department head, the Human Resources Director, or the Police Department Watch Commander; and/or
- e. Cooperate fully in any administrative or criminal investigation.

Also, employees should report to their direct supervisor, department head or the Human Resources Director any circumstance or condition that they feel poses a security hazard or potential claim of City liability.

26.8 Supervisor/Manager Responsibilities:

A supervisor/manager is expected to take all acts or threats of violence seriously, and to assess the immanency of the threat. A supervisor/manager informed of an actual or imminent violent act as defined by this policy shall, whenever possible, ensure the immediate safety of employees and, if appropriate, shall call the Belmont Police Department and notify the Department head and the Human Resources Director.

A supervisor/manager also should refer all media inquiries to the Department Head, Human Resources Director or the Police Department Watch Commander.

26.9 Future Violence:

- a. Any employee who has reason to believe he/she or any City employee may be the subject of a violent act in the work environment or as a result of his/her City employment shall immediately notify his/her direct supervisor, department head or the Human Resources Director.
- b. Any employee who has obtained a temporary or permanent restraining order to protect him/herself from another individual or who him/herself is subject to a

restraining order issued on behalf of someone else, shall immediately supply a copy of the signed order to the Belmont Police Department as well as to his/her department head. The employee should provide a description of the individual named in the restraining order (or if readily available, a recent photograph of the named individual). The employee also should advise the Court to include the City workplace in the restraining order.

- c. All employees are to advise their direct supervisor or department head when any potentially violent situation exists in their lives which could result in violence at work.
- d. Every employee shall disclose to his/her department head, any conviction of a felony or misdemeanor within 5 working days from said conviction.

26.10 Retaliation:

No employee shall retaliate against another employee who reports an incident pursuant to this policy. Employees found to have violated this section may be subject to disciplinary action, up to and including termination.

26.11 False Reporting of an Incident:

Any employee who makes a report under this policy which the employee knows or should know is false shall be subject to disciplinary action, up to and including termination.

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